

09:23AM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

September 24, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF ANTHONY CASULLO - DAY 1
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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* * * * *

(Excerpt commenced at 10:35 a.m.)

(Jury is present.)

THE COURT: The government can call its next witness.

MR. COOPER: Thank you, Judge, the government calls
Anthony Casullo.

A N T H O N Y C A S U L L O, having been duly called and
sworn, testified as follows:

MR. COOPER: Judge, what time are you looking to
break this morning?

THE COURT: About 11, I guess.

MR. COOPER: Great. Thank you.

DIRECT EXAMINATION BY MR. COOPER:

Q. Good morning, sir.

A. Good morning.

Q. Can you please introduce yourself to the jury?

A. Yes, my name is Anthony Casullo.

10:36AM 1 Q. And where do you live currently?

10:36AM 2 A. I live in Clarence, New York.

10:36AM 3 Q. How long have you lived in this area?

10:36AM 4 A. I initially grew up in Buffalo, moved away, and came back
10:36AM 5 to Buffalo about 2015. Moved the family back before me
10:36AM 6 around 2012, but I came back about 2015.

10:36AM 7 Q. Okay. And we're going to get into that timeline in a
10:36AM 8 little more detail later. You said you grew up here?

10:36AM 9 A. That's correct.

10:37AM 10 Q. What neighborhood did you grow up in?

10:37AM 11 A. I grew up in Kenmore, New York.

10:37AM 12 Q. Where did you go to school at?

10:37AM 13 A. I went to high school at Saint Joseph's Collegiate
10:37AM 14 Institute. Saint Joe's.

10:37AM 15 Q. What year did you graduate from Saint Joe's Collegiate?

10:37AM 16 A. 1985.

10:37AM 17 Q. Are you working right now?

10:37AM 18 A. I am currently working.

10:37AM 19 Q. What kind of work do you do?

10:37AM 20 A. My job is as -- the title is a subject matter expert for
10:37AM 21 law enforcement investigations. So what that means is I work
10:37AM 22 for a U.S. contract company, it's a veteran-owned contract
10:37AM 23 company. And we have technical engineers that build border
10:37AM 24 security systems for the government, foreign governments,
10:37AM 25 through the State Department. Our contract is through the

10:37AM 1 State Department. And I advise them on how to build border
10:37AM 2 security systems from an investigative perspective.

10:37AM 3 Q. How long have you had that work for?

10:37AM 4 A. Since August of 2023. So a little over a year now.

10:37AM 5 Q. What did you do before that?

10:37AM 6 A. Before that, I had an approximately 33-year career in law
10:38AM 7 enforcement, working for several different agencies.

10:38AM 8 Q. Let's kind of walk through that. Where did your career
10:38AM 9 in law enforcement start, sir?

10:38AM 10 A. So my first job in law enforcement started after I
10:38AM 11 graduated from Canisius College. I worked for the
10:38AM 12 Immigration Service. I was hired in December 1990 and worked
10:38AM 13 there for about six years.

10:38AM 14 Q. After the Immigration Service for six years, what did you
10:38AM 15 do next?

10:38AM 16 A. From there, I accepted a job as a police officer in the
10:38AM 17 Town of Tonawanda in the area where I grew up, Kenmore is
10:38AM 18 part of Tonawanda. And I decided to leave the Immigration
10:38AM 19 Service and become a police officer.

10:38AM 20 Q. How long were you a police officer in the Town of
10:38AM 21 Tonawanda?

10:38AM 22 A. About three years.

10:38AM 23 Q. What did you do after that?

10:38AM 24 A. After that, I was hired as a special agent by the DEA,
10:38AM 25 Drug Enforcement Administration.

1 Q. Can you describe for the jury, give us like a general
2 timeframe, when did you get hired on by the DEA?

3 A. Yeah. I was hired on -- I believe I started the academy
4 summer of 1999.

5 Q. You said you started the academy. Is that like a formal
6 training?

7 A. Right. I went through formal training in Quantico,
8 Virginia. It was four months. Upon graduation, came back to
9 Buffalo, which is the office that I hired out of for a short
10 period of time, I think it was 30 days, and reported for my
11 first assignment in Las Vegas, Nevada.

12 Q. Do you get to pick where you're assigned when you
13 graduate from the DEA academy? How does that work?

14 A. How it works, at least when I was hired, it may have
15 changed, but when I was hired, when they offer you the job,
16 you don't know where you're going to go. So you accept the
17 job not knowing.

18 When I was at the academy, maybe week six, they give a
19 list to your class. So if there's 50 students in a class,
20 there's a list of 50 slots. And you, along with your other
21 students with no instructors, you all pick where you want to
22 go, and pick three choices.

23 So if everybody picks the same, then a lot of people
24 aren't going to get what they want. They're doing that
25 intentionally to see how you work with your class, how you

1 get along.

2 I was lucky, we had a good class, a lot of good slots.

3 And so I got Las Vegas.

4 Q. Was Las Vegas a spot you desired for a specific reason?

5 A. Yes, my wife grew up in Buffalo, did not want to leave
6 Buffalo, was happy about the job but not about moving. And
7 she had a brother that lived in Las Vegas and family that
8 lived there. Well, the brother lived there and her parents
9 spent a lot of time there.

10 So I chose that as a first choice to make things good at
11 home, I guess, and it worked out.

12 Q. Is Las Vegas a large office for the DEA?

13 A. It's a district office. So there's divisional offices
14 which are the biggest offices, and underneath the division
15 there's a district office and a resident office. So Vegas is
16 a district office of the Los Angeles field division, so it's
17 a midsize office, one of the bigger midsize offices.

18 Q. Okay. And we've heard a lot about all the different
19 types of work that special agents at the DEA do, so we're
20 going to skip that section here and we're gonna move on.

21 How long were you at the Las Vegas district office for --

22 A. Right.

23 Q. -- the first time?

24 A. So I was there twice. Well, the first time, I reported
25 initially in December of 1999. And I stayed there until -- I

1 believe it was June of 2002.

2 Q. Okay. And what caused you to transition out of the
3 Las Vegas office around June of 2002?

4 A. So when I applied to DEA, which was around the time I was
5 a police officer, I think it was even before that. I applied
6 to the FBI at the same timeframe. I got hired at DEA first
7 when I was halfway through the process with FBI, was very
8 happy with DEA, they're both great agencies.

9 And then 9/11 happened while I was an agent in Las Vegas.
10 Like some other people I knew in law enforcement, I felt
11 strongly about what happened. I wanted to work
12 counterterrorism investigations, and spoke to my wife about
13 it, said there might be a chance that we could move back
14 east.

15 So I contacted the FBI in Las Vegas, reopened my
16 application. I was halfway through the process. And I
17 actually applied with the FBI and CIA. And I was hired by
18 FBI within six months.

19 I went back -- or, I went through the panel interview,
20 phase two testing, I believe within -- maybe six or seven
21 months I was hired by the FBI as a special agent.

22 Q. Was kind of switching gears there and pursuing a career
23 with the FBI because you wanted to work on those
24 counterterrorism cases?

25 A. Yes.

1 Q. Did you expect there would be more of an opportunity for
2 you to do that at the FBI than at the DEA?

3 A. Yeah. FBI was the, still is today, the lead federal law
4 enforcement agency in terrorism investigations. They run the
5 JTTF, which is the Joint Terrorism Task Force. And they're
6 the lead agency in those investigations.

7 Q. Did you ultimately go through Quantico and receive a
8 posting or a position at the FBI as a special agent?

9 A. Yes. Yes, I did. I was hired and went to the academy
10 for the FBI, I believe it was June of 2002. So, it wasn't
11 even a year after 9/11.

12 And so same thing with FBI, they don't tell you initially
13 where you're going, you find out when you're there. Their
14 process is a little different. You list all the field
15 divisions that they have from 1 all the way down to -- I
16 can't remember how many they had, maybe there were 30 of
17 them. You rank them 1 through 30 with the choice that you
18 want most at the top.

19 I put Buffalo first, and I put the Charlotte field
20 division second, and I can't remember after that. And I was
21 chosen for the Charlotte field division initially.

22 But they said if you have a prior law enforcement
23 experience, you can go to one of their smaller offices, which
24 is called a resident agency in the FBI, similar to the DEA
25 with resident office.

1 And that's exactly what happened to me. About two weeks
2 later, I was informed that I was selected to go to
3 Fayetteville, North Carolina, which I knew nothing of.

4 Q. Okay. So you were initially told Charlotte, and then it
5 was switched to a smaller satellite office inside the
6 Charlotte area of operation called Fayetteville?

7 A. Yeah. It was within the Charlotte division, a resident
8 office. It was a small office. There were only other three
9 other agents that were there.

10 I was told because of my law enforcement background that
11 me and two other agents were going to small offices like
12 this. And that's where I went.

13 Q. Was that small, kind of, four-agent office in
14 Fayetteville a dramatic difference from what you had
15 experienced in the Las Vegas division in the DEA?

16 A. Yeah. It was -- it was very different. With DEA, I was
17 in a larger group-type setting where I worked on a task
18 force, a gang task force, with officers from the Las Vegas
19 Police Department. I believe there were ten of us at the
20 time in a group. So you work closely in a group-type
21 environment working cases.

22 This with the FBI was pretty different. There were just
23 three of us. There was a fourth agent there doing something
24 different for headquarters. So a lot of times, you were on
25 your own doing leads, following leads that were given,

1 working with local agencies.

2 There were a lot of bank robberies. There was very
3 little terrorism work. I think I covered one lead where I
4 interviewed a cook, an Iraqi cook at a Waffle House before
5 the U.S. invaded Iraq. It wasn't what I thought in terms of
6 a task force that I was used to.

7 Q. Did you immediately bring your family from Las Vegas out
8 to that Fayetteville office?

9 A. No. No. I didn't -- told my wife don't sell the house
10 yet until we figure this out. Fayetteville was a smaller
11 town. It was just outside of Fort Bragg. And I just said
12 let me see how this works out, because I had two years to go
13 back to DEA without having to reapply essentially, or go
14 through the academy. And that's essentially what happened.

15 Q. So you said you had two years to go back to DEA, so is it
16 fair to say that within the confines of the rules, if you
17 changed your mind you could have gone back any time within
18 two years?

19 A. There was still a process involved but not an entire
20 process. It was like a modified process, and one where I
21 wouldn't have to go back through the DEA academy all over
22 again. But I had just gone through in '99, and then I had
23 gone through with the FBI in 2002. So I wasn't gonna do it a
24 third time. So I had that two-year window.

25 Q. Did you ultimately decide to go back to DEA?

10:46AM 1 A. I did, yep.

10:46AM 2 Q. Where did you go back to?

10:47AM 3 A. So when I first reached out to DEA, it was supervisors
10:47AM 4 that I had worked with, one in particular that was a
10:47AM 5 supervisor in Las Vegas when I was on the task force. He was
10:47AM 6 at headquarters, and he was familiar with the people in
10:47AM 7 Washington, which is where ultimately I'd be hired back from.

10:47AM 8 And he told me that he knew the special agent in charge in
10:47AM 9 LA, and that he had spoken to her, and that I would go back
10:47AM 10 to Las Vegas once they were done processing the application.

10:47AM 11 And that's what happened. I went back to Vegas.

10:47AM 12 Q. On that second stretch in Vegas, how long did you stay
10:47AM 13 there and work there for?

10:47AM 14 A. So I would have been back in Vegas, it would have been
10:47AM 15 summer of 2003. And then I stayed in Vegas until I believe
10:47AM 16 it was December of 2013.

10:47AM 17 Q. So about ten years?

10:47AM 18 A. Yeah.

10:47AM 19 Q. Okay. And eventually as your kids got older, were you
10:48AM 20 hoping to come back to the Buffalo area?

10:48AM 21 A. So our plan initially was to come back to Buffalo the
10:48AM 22 first opportunity we had. But we decided to stay a little
10:48AM 23 bit longer. We -- we formed some roots there with friends
10:48AM 24 and family and our kids growing up there, so we stayed there
10:48AM 25 a while.

1 But at the end of the day, we still wanted to come back
2 home. This is where I was from, my wife was from, and we
3 wanted our kids to go to school in New York State, which had
4 a much better education system.

5 And they were getting older, high school age, so that was
6 the time when I started applying to come back.

7 Q. Okay. And when you say applying to come back, was that
8 to come back to the New York field division generally?

9 A. For me, it was -- you know, Buffalo was the goal, which
10 was part of the New York field division, and there were other
11 offices that they had offered me which I ultimately took.

12 Because at time when I wanted to come back to Buffalo,
13 there were no vacancies, they had a full office. They were
14 waiting for someone to retire.

15 They offered me -- I believe it was Plattsburgh,
16 New York, then New York City, to get back into the field
17 division. And I chose to go to New York City.

18 Q. Were you -- was it represented to you that if you came
19 back to New York, once a spot opened in Buffalo you would be
20 able to transition there?

21 A. So the same supervisor that knew the woman -- the agent
22 in charge in LA who was my first supervisor, knew the agent
23 in charge in New York. Because he was an agent in charge in
24 San Diego, they all knew each other pretty well, that's the
25 way the agency works. He had specifically spoken to the

1 agent in charge in New York City.

2 And they said have him come back, work in New York. As
3 soon as there's a vacancy in Buffalo, we'll transfer him.

4 And that's exactly what happened.

5 Q. Did you bring your family with you to New York City, or
6 what happened to them?

7 A. I bought our house in Clarence in 2012. And then still
8 wasn't sure -- still wasn't assigned to New York yet. It was
9 back and forth about Buffalo, not being an opening in
10 Buffalo, so I decided to buy the house anyways.

11 So I spent a little time in Vegas while I had the house
12 in Buffalo and my family was in Buffalo. And then went to
13 New York field division for almost two years, and then came
14 back.

15 So there was a timeframe where I had a house in Clarence,
16 New York, but lived in an apartment in New York City while I
17 worked until I was transferred back, and then just moved back
18 to our house.

19 Q. During that timeframe when your family's living in the
20 house in Clarence and you're assigned to work in the City of
21 New York, did you make some trips back to Buffalo to kind of
22 visit with your family when you could?

23 A. Yeah, I tried to come home as much as possible. I had
24 four kids at home and a wife, so as much as I could, yeah.

25 Q. Okay. And we're going to cover this in more detail in a

1 little bit, that topic of making trips home. But generally,
2 on those trips when you're coming back to Buffalo from
3 New York City, did you get to meet and start interacting with
4 some of the agents that worked in DEA Buffalo resident
5 office?

6 A. When I came home --

7 Q. When you were coming back to Buffalo kind of on these
8 trips, did you meet or interact with any of the DEA Buffalo
9 agents?

10 A. Not -- not so much then. I mean, I had known a lot of
11 the Buffalo agents from when I lived in Las Vegas, we'd come
12 home for summers because my family still lived in Buffalo, my
13 mother, my father, my sisters, nieces, nephews, things like
14 that. So we spent almost every summer in Buffalo. It was
15 during that timeframe that -- I had a close friend that was a
16 classmate from the academy who worked in Buffalo, so there
17 were times in the summer that I'd meet him out with other
18 agents from Buffalo.

19 Q. Okay. So I think I missed up my own timeline there. So
20 it's when you're working out in Vegas, but visiting Buffalo
21 over the summers, that you met some of the Buffalo agents; is
22 that correct?

23 A. Yeah, that's more accurate.

24 Q. Okay. Did there come a time ultimately when you got that
25 transfer you were promised back to the Buffalo resident

1 office?

2 A. Yes, I was eventually transferred back to Buffalo.

3 Q. Okay. Are there a couple of different groups that you
4 can be assigned to in the Buffalo resident office?

5 A. So at that time there were three groups. I think there
6 still are. So they had them numbered, my number is D-57,
7 D-58, and then a tactical diversion squad which worked more
8 pharmaceutical-type cases. And I was assigned group D-57.

9 Q. We've heard some discussion during the trial about the
10 agent group and the task force group. Does that sound
11 familiar to you?

12 A. There is an agent group. It's called -- it was called
13 the agent group, D-57, because it was mostly agents, but
14 there were task force officers on it as well. So it was a
15 mix of agents and some local police officers assigned to DEA.

16 And then the official task force group is D-58, which has
17 more task force officers and less agents.

18 Q. So when you initially came to the Buffalo resident
19 office, you were in D-57, which is sometimes colloquially
20 referred to as the agent group?

21 A. Yes.

22 Q. Okay. While you worked at the DEA, what kinds of cases
23 did you investigate?

24 A. During my whole career?

25 Q. During your whole career.

1 A. Yeah. I worked a wide range of cases. From street-level
2 gang narcotics cases with violent gang members to Mexican
3 drug-trafficking organizations that operate at the mid level,
4 to international cases where I traveled to Colombia, Panama,
5 Nicaragua, probably traveled overseas on nine occasions. So
6 I worked them from top all the way to international cases.

7 **MR. COOPER:** Judge, I know I'm a couple minutes
8 early, but I think this is a good time for me to break, if
9 you're --

10 **THE COURT:** That's fine.

11 **MR. COOPER:** Thank you.

12 **THE COURT:** We'll take our morning break now. Please
13 remember my instructions about not talking about the case even
14 with each other and not making up your mind.

15 See you back here in about 15 minutes or so.

16 (Jury excused at 10:53 a.m.)

17 **THE COURT:** Anything for the record before we break?

18 **MR. COOPER:** No, Your Honor.

19 **THE COURT:** Anything?

20 **MR. SINGER:** No, Your Honor.

21 **THE COURT:** Okay. We'll see you in about 15 minutes
22 or so.

23 (Off the record at 10:54 a.m.)

24 (Back on the record at 11:16 a.m.)

25 (Jury not present.)

11:16AM 1 **THE CLERK:** All rise.

11:16AM 2 **THE COURT:** Please be seated.

11:16AM 3 **THE CLERK:** We are back on the record for the
11:16AM 4 continuation of the jury trial in case number 19-cr-227,
11:16AM 5 United States of America versus Joseph Bongiovanni.

11:16AM 6 All counsel and parties are present.

11:16AM 7 **THE COURT:** Ready to go.

11:16AM 8 **MR. COOPER:** Yes, Judge.

11:16AM 9 **THE COURT:** Anything from the defense?

11:16AM 10 **MR. SINGER:** No, sorry.

11:16AM 11 **THE COURT:** Great. Okay. Let's bring them in,
11:16AM 12 please, Pat.

11:16AM 13 And let's get our witness back.

11:18AM 14 (Witness and Jury seated at 11:18 a.m.)

11:18AM 15 **THE COURT:** The record will reflect that all our
11:18AM 16 jurors, again, are present.

11:18AM 17 I remind the witness that he's still under oath.

11:19AM 18 And you may continue, Mr. Cooper.

11:19AM 19 **MR. COOPER:** Thank you, Judge.

11:19AM 20 **BY MR. COOPER:**

11:19AM 21 Q. You may have a seat. Thank you.

11:19AM 22 When we broke, I think we left off talking about the
11:19AM 23 different types of investigations that you worked on at the
11:19AM 24 DEA during the course of your career; is that right?

11:19AM 25 A. Correct.

1 Q. Okay. And I want to ask you specifically, at any point
2 during your career, did you get the opportunity to work on
3 organized crime cases?

4 A. I did.

5 Q. Okay. And when was the first time that you got the
6 chance to work on an organized crime case?

7 A. It was in Las Vegas, when I worked in Las Vegas.

8 Q. Okay. And can you just describe for the jury generally
9 how did that come up that you got the opportunity to start
10 working on an O.C. case?

11 A. Sure. So I think it was around 2004. My supervisor in y
12 group at the time, he used to work in New York City before he
13 became a supervisor, and he had worked organized crime cases,
14 drug-related organized crime cases with DEA when he was in
15 New York City.

16 So when he came to Las Vegas, he still had an interest in
17 working those types of cases. So that's how I initially
18 became involved.

19 Q. When you initially became involved in working on those
20 cases, did you develop an interest for it?

21 A. Oh, yeah. Yeah. I thought it was interesting. It was
22 different than some of the other cases that I had worked in
23 Las Vegas, so, yes, I did find it interesting.

24 Q. We're going to cover in some detail that topic a little
25 more. But first, I want to ask you about the

responsibilities that you have as a DEA special agent.

When you become a DEA special agent, do you take an oath?

A. Yes, you do.

Q. Generally, what do you promise when you take that oath?

MR. SINGER: Objection as cumulative at this time.

We've heard the same testimony from several witnesses.

MR. COOPER: Judge, I can come up on it and argue it.

THE COURT: Yeah, come on up.

(Sidebar discussion held on the record.)

MR. COOPER: So, I think it's about a 30-second answer or less. And the reason that I think it's important to have it come in through this witness is because it's not so much about whether the jury has heard the testimony, it's about what this witness's understanding of that oath is.

And so it's -- this is a witness that's gonna be subjected to heavy attack. He was subjected to heavy attack at the last trial. And so I think it's appropriate for a 30-second answer to let him answer this.

MR. SINGER: And again, it's cumulative, Judge. We've heard it through six or seven witnesses at this time. Every single DEA witness cannot come up here and talk about the same --

THE COURT: I think Mr. Cooper's given me a good reason why this witness should be allowed to testify or to talk about this.

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MR. COOPER: Thank you.

11:21AM

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(Sidebar discussion ended.)

11:21AM

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THE COURT: The objection is overruled.

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BY MR. COOPER:

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Q. Generally, what did you promise to do when you took that oath at the DEA?

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A. Generally, to enforce the drug laws of the United States, to protect the United States and the U.S. Constitution from all enemies, foreign and abroad.

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Q. Was there any part of that oath that told you that you

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should pick and choose who you investigate based on the color of their skin?

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A. No, absolutely not.

11:22AM

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Q. Was there a DEA policy that existed while you worked

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there about investigating people based on the color of their skin?

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11:22AM

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A. Yes, of course.

11:22AM

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Q. What was that policy?

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A. That that could not be a determining factor of who was gonna be involved in your investigation. It couldn't be based on race.

11:22AM

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11:22AM

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Q. How about ethnicity, or where somebody's from? Is that something that you're allowed to make the determining factor in whether or not to investigate someone?

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A. No. Absolutely not. And it's been that way throughout

1 my entire law enforcement career. Wherever I've worked,
2 whether it was Immigration Service, the DEA, the FBI, I
3 worked at the State Attorney General's Office at the end of
4 my career, that's consistent throughout anybody I worked for.

5 Q. You told us a moment ago that eventually you came back
6 and you were assigned to group D-57 in the Buffalo resident
7 office. When did you return and start working in group D-57
8 at the Buffalo resident office?

9 A. So I came back December of 2015. I came back to Buffalo
10 and was assigned to D-57.

11 Q. Do you know a person by the name of Joseph Bongiovanni?

12 A. Yes, I do.

13 Q. How do you know that person?

14 A. I know -- I know him because we worked together in group
15 D-57 when I was an agent.

16 Q. Is he in court today?

17 A. Yes, he is.

18 Q. Can you point him out and identify something he's wearing
19 for the record?

20 A. He's wearing a gray suit and light blue tie, sitting
21 between his attorneys.

22 **MR. COOPER:** For the record, the witness has
23 identified the defendant.

24 **THE COURT:** It does.

25 **MR. COOPER:** Thank you.

1 drugs, some cases that involve pharmacies, doctors, things
2 like that.

3 Q. If an agent works in the pharmaceutical group or the
4 diversion group, as you've described it, do you know if they
5 still have access to DEA databases?

6 A. Yeah. It's the same as in other groups as far as what
7 they have access to.

8 Q. Okay. So if an agent was working in the diversion group,
9 could they still access on the deconfliction databases at the
10 DEA?

11 A. Yes. They can. I think it's pretty much every system.
12 They may have even more access because of the types of cases.
13 But as me as an agent in an enforcement group, they have the
14 same access to things that I do.

15 Q. Okay. Did all those groups -- 57, and 58, and TDS
16 tactical diversion -- did they all work in the same office?

17 A. It was the same building. I believe I was on the fifth
18 floor with -- so 57 and 58 were on the same floor. And the
19 TDS group just was a floor beneath us in the same building.

20 Q. Can you describe for this jury your relationship with the
21 defendant when you first started working at the DEA Buffalo
22 resident office in December of 2015?

23 A. Yeah. It was fine. We knew each other a little bit
24 before. So it was -- it was fine.

25 Q. You said "we knew each other a little bit before." Can

1 you describe what you mean by that?

2 A. So, those times when I mentioned I would come home in the
3 summer and see people from the Buffalo office, I met Joe at
4 least once, maybe twice, when I was out with friends from the
5 DEA Buffalo office while I was still working in Vegas.

6 Q. Okay. And so were those interactions generally like
7 social interactions?

8 A. Yeah, just social interactions. We were out. And I
9 can't remember specifically what it was, I think -- I can't
10 remember, I think was one was a DEA party somewhere in
11 downtown Buffalo.

12 Q. Once you came back to start working at the DEA Buffalo
13 resident office, did you ever work together with the
14 defendant on investigations?

15 A. We did. We did. We were partners when I first came back
16 to Buffalo.

17 Q. Did you get along with him at that time?

18 A. Yes.

19 Q. Did you have any negative feelings towards him at that
20 time?

21 A. No, I did not.

22 Q. Did that relationship that you had with the defendant
23 that you've just described, did that change over time?

24 A. Yes, it did. It did.

25 Q. Without getting into the specifics right now, did that

1 relationship change because of some things this defendant
2 said to you?

3 A. Yes, it did.

4 Q. All right. We're going to get there in a minute.

5 Sitting here today, Mr. Casullo, can you tell the jury
6 how you feel about the defendant today?

7 A. I have -- I have no feelings. I'm hollow inside. I've
8 gone through a lot of feelings through this whole thing.

9 It's been very difficult. But at this point, I have no
10 relationship with him whatsoever. Just hollow inside.

11 Q. I want to pivot now and talk about a person by the name
12 of Michael Masecchia. Do you know that name?

13 A. Yes, I do.

14 Q. How do you know that name?

15 A. I know that name from -- well, first, I had heard that
16 name growing up when I grew up in Kenmore/Tonawanda, when I
17 was in college and worked out at a gym called Fitness
18 Factory. The guy who walked in and out, walked behind the
19 counter, meet with the owner, I remember asking someone I was
20 working out with, who is that guy? And they said it was Mike
21 Masecchia.

22 I never met him, never spoke to him, but I had remembered
23 that.

24 And then fast forward to 2004, he became a target of our
25 investigation in Las Vegas.

11:28AM 1 Q. So 2004, you were working in the Las Vegas district
11:28AM 2 office; is that correct?

11:28AM 3 A. Yes.

11:28AM 4 Q. And you said that Mike Masecchia became a target of an
11:28AM 5 investigation you had out there; is that correct?

11:28AM 6 A. That's correct.

11:28AM 7 Q. Can you describe generally what your investigation in
11:28AM 8 Las Vegas had to do with Mike Masecchia here in the Buffalo
11:29AM 9 area?

11:29AM 10 A. Yes. At the time, the information we had was that
11:29AM 11 Michael Masecchia was a school teacher in Buffalo, New York,
11:29AM 12 and that he was going to be moving to Las Vegas, and he was
11:29AM 13 going to be living in a house that was owned by one of the
11:29AM 14 targets that we were looking at.

11:29AM 15 We were looking at a group of people. Most of the people
11:29AM 16 that were part of what we were looking at at the time were
11:29AM 17 either from Buffalo or their parents were from Buffalo, and
11:29AM 18 they were living together in Las Vegas. They were living in
11:29AM 19 Las Vegas. And they were associated with each other, and the
11:29AM 20 people that we're looking at.

11:29AM 21 And it was a drug investigation at the time. So, it had
11:29AM 22 a drug nexus. And I -- I can't remember that specific time
11:29AM 23 if it had organized crime ties -- yes, it did. Because some
11:29AM 24 of the targets, their family members and some of the things
11:29AM 25 that were in our intelligence database indicated that there

1 were ties to organized crime through the family and through
2 who they were, different things.

3 Q. So did you have an initial investigation into

4 Las Vegas-based targets where Masecchia's name came up?

5 A. Yeah. We were initially looking at a group of people.

6 Q. Okay. And was that group of people in your investigation
7 associated with Italian Organized Crime?

8 A. Yes. Either they were, the people we were looking at, or
9 their family was. One particular -- yeah.

10 Q. I'll ask a more general question.

11 A. Sure.

12 Q. Was there kind of a nexus to organized crime in the
13 investigation that you were working?

14 A. Absolutely.

15 Q. Okay. As a result of learning this information that
16 Masecchia might be moving out to Las Vegas, did you
17 coordinate with or involve any other DEA offices around the
18 country?

19 A. We did. Discussing the case with my supervisor, we
20 thought it would be a good idea, since we saw ties back to
21 Buffalo either through family members or through phone
22 records, to contact the Buffalo office.

23 My supervisor asked me if I knew any agents in the
24 Buffalo office, which I said I did.

25 I had a particular friend that was a classmate from the

1 academy that was working in Buffalo, his name is Mike Hill,
2 and that's who I wanted to reach out to.

3 Q. Is that a normal thing to do on an investigation at the
4 DEA is, you know, reach out to another district office or
5 resident office if something comes up that's kind of tied to
6 that location?

7 A. Yeah. It happens all the time. If you're lucky, someone
8 in your office already has a contact there, someone that they
9 have some rapport with or worked with before. And I did in
10 this case.

11 So, yeah, I mean, that happens all the time. That's how
12 you coordinate cases.

13 Q. And how can coordinating cases like that help an
14 investigation?

15 A. Well, especially at the DEA where the majority of the
16 cases were multi jurisdictional, they weren't just in the
17 place we were working. A lot of times they had ties to
18 another state, another city, another country.

19 And since I'm not physically working in that place, it
20 was extremely beneficial to have agents that did that you
21 could call on the phone and that could assist you in your
22 investigation.

23 Q. You mentioned that you planned to reach out to a special
24 agent named Mike Hill because you knew that person from the
25 academy; is that right?

11:32AM 1 A. Yeah. Mike and I met at the DEA academy when we were
11:32AM 2 going through as basic agent trainees.

11:32AM 3 Q. Okay. And so did you ultimately reach out to that
11:32AM 4 person, Mike Hill, from the DEA in Buffalo?

11:32AM 5 A. I did.

11:32AM 6 Q. Did you discuss the case that you had involving Masecchia
11:32AM 7 with him?

11:32AM 8 A. Yeah. Generally, gave an idea of what we had going on in
11:32AM 9 Las Vegas.

11:32AM 10 Q. At the time that you called Mike Hill and spoke about
11:32AM 11 Masecchia, did he seem to know what you were talking about?
11:32AM 12 Or were you telling him about it for the first time?

11:32AM 13 A. Yeah. Mike -- it was all new to Mike. Mike didn't have
11:32AM 14 anything. I was telling him what we had.

11:32AM 15 Q. Okay. And after you called Mike Hill at the DEA in
11:32AM 16 Buffalo to tell him what you had going on into Mike
11:32AM 17 Masecchia, did you receive a phone call from someone else in
11:32AM 18 the DEA Buffalo office about that case?

11:32AM 19 A. I did.

11:32AM 20 Q. Who called you?

11:32AM 21 A. Joe Bongiovanni.

11:32AM 22 Q. Were you expecting that call?

11:32AM 23 A. No. It was unsolicited. I wasn't expecting it. Mike
11:32AM 24 never mentioned that someone was gonna call me, so I didn't
11:33AM 25 expect it.

1 Q. All right. I want to focus in on that conversation.

2 You said the defendant called you after your conversation
3 with Mike Hill; is that correct?

4 A. Correct.

5 Q. So is this after you had told Mike Hill that you were
6 investigating Mike Masecchia?

7 A. Yes.

8 Q. When the defendant calls you, describe that conversation
9 for the jury. Walk us through it.

10 A. Okay. So I received a call. I believe it was on my cell
11 phone. And when I answered it, he said it was Joe
12 Bongiovanni. It kind of caught me off guard.

13 But he said that he had heard through Mike Hill that we
14 were working on investigation, and that Michael Masecchia's
15 name came up. And that he knew Michael Masecchia from
16 growing up in North Buffalo. And that he could -- his name
17 couldn't be on any reports, but he could possibly help
18 providing information.

19 He also mentioned that he had heard that this -- I
20 thought it was the Erie County Sheriff's Department was
21 investigating Masecchia for operating an outdoor marijuana
22 grow operation in the Southern Tier of New York, south of the
23 city.

24 Q. When the defendant called you and told you he could help
25 but he couldn't put his name on any reports, did that stick

1 out in your memory?

2 A. Yeah, it sticks out.

3 Q. Why?

4 A. It sticks out. I mean, there are occasions where you may
5 know someone that comes up in an investigation, but you're
6 either in or your out. You're not both.

7 You can't -- you provide information, you're a witness.

8 If you're a witness, your name has to be on a report. You're
9 either in or your out.

10 And what I mean by that is if a determination is made
11 that you can be involved, and that there is no conflict of
12 interest, then you work that investigation. You provide
13 information, you're a witness, your name goes on reports.

14 If you can't, then you shouldn't be involved at all. You
15 shouldn't be calling people. You shouldn't be providing
16 information. You probably should have a discussion with the
17 supervisor in your group saying, hey, there's a conflict of
18 interest here. Our group's gonna work this, then I probably
19 shouldn't be involved in this case.

20 So, that's my experience.

21 Q. During that conversation with the defendant, did you
22 provide at least some general information about what you at
23 the DEA in Las Vegas were working on?

24 A. Yeah. Generally, and at that point, we didn't have a,
25 like, a -- it was at the beginning stages of the

1 investigation, it progressed afterwards. But the beginning
2 stages provided general information that we had phone
3 records, and we were looking at phone records, and there were
4 some 716 area code Buffalo numbers were coming up that I
5 could pass to them that hopefully they could maybe identify
6 and help us expand the investigation.

7 We would do the Vegas side, they would do the Buffalo
8 side. And working jointly together, again, collaborate and
9 expand the investigation.

10 Q. Now, you mentioned at the beginning of this series of
11 questions about your phone call with the defendant that he
12 told you that he knew Mike Masecchia from growing up; is that
13 correct?

14 A. Yeah. I believe from growing up in North Buffalo area.

15 Q. Did the defendant tell you during that phone call that he
16 was friends with Mike Masecchia?

17 A. No.

18 Q. Did he tell you during that phone call that he and Mike
19 drove to college together every day?

20 A. No.

21 Q. That didn't come up?

22 A. No. No, it did not.

23 Q. You told us a few moments ago that what kind of started
24 your contact with the Buffalo office and Mike Hill generally
25 was that you expected Mike Masecchia to be moving out to the

1 Las Vegas area where you had an investigation going on,
2 right?

3 A. Yeah. At the time, that was the information we had, that
4 he was going to be moving out.

5 Q. After you called the Buffalo office and conveyed that
6 information, did Mike Masecchia ever end up moving to the
7 Las Vegas area?

8 A. Yeah -- to the best of our knowledge working that case,
9 no, we never saw him out there. We conducted extensive
10 surveillance. He was never identified as being out there.
11 We never -- we eventually went up on a wiretap on telephones.
12 We never intercepted any telephone calls with him. So, no.

13 Q. Did the defendant ever call you back after that first
14 phone call and offer more information about Masecchia?

15 A. No.

16 Q. Did you eventually close your investigation into
17 Masecchia?

18 A. We did at some point.

19 Q. Now, we spoke a moment ago about your call to Mike Hill.
20 Did you learn that after your call to Mike Hill, he opened a
21 kind of a collateral or parallel case in DEA Buffalo?

22 A. Yeah. So, we had a case open. Our file title was
23 Michael Masecchia, because at the time we thought he was
24 moving out to Vegas. And Mike Hill opened a criminal file as
25 well with the same file title, Michael Masecchia. So, yeah.

1 I wouldn't -- it was kind of a parallel investigation,
2 but there were two criminal investigations, one open in
3 Buffalo, one open in Vegas.

4 Q. Once those two investigations into the same target are
5 opened, does it cause some of the reports to be shared
6 between the offices?

7 A. Yeah. What typically happens is if you're working
8 closely with an office, you can either provide the reports to
9 them at the time using the fax machine, send them to that
10 agent in the office so they had an idea of what was going on.

11 Or you could write on the report, there was a section on
12 a DEA-6 a report of investigation a distribution section
13 where you could put another office and another agent. So
14 when that report went through the process of being approved
15 and distributed, it could go -- it could go to that agent
16 automatically through the process.

17 Q. Are you aware of whether some of the reports from your
18 Vegas file ended up being distributed to the Buffalo office?

19 A. Yes. Yes.

20 Q. Were they?

21 A. Yes.

22 Q. Now you later came to work in the Buffalo office. As an
23 agent working in a group in the Buffalo office, would you
24 have access to the reports in different case files around the
25 office if you wanted to go look at them?

1 A. Oh, yeah. Yes. I mean, you're working in a specific
2 group, but yeah, there was a file room, and yes.

3 In the case management system, you -- you had access to
4 your cases. But the physical files were in a case file room.
5 All the agents had access to that room.

6 Q. Okay. So the answer is yes, you could access the
7 physical file as an agent?

8 A. Absolutely.

9 Q. Did you learn ultimately that the DEA Buffalo also closed
10 their file into Masecchia?

11 A. Yep. At some point. Ours was still going on and
12 progressing, and they closed theirs before ours at some
13 point.

14 Q. Got it. Did Masecchia end up getting charged in your
15 case back in 2004?

16 A. No.

17 Q. I want to talk now about 2009 and fast forward a second.

18 In 2009 were you still working at the DEA?

19 A. Yes, in Las Vegas.

20 Q. As far as you're aware, was the defendant a DEA special
21 agent in Buffalo in 2009?

22 A. To the best of my knowledge.

23 Q. I'd like to show Government Exhibit 12B in evidence. I
24 believe in evidence. Got those reading glasses ready?

25 A. Yeah.

1 Q. We're looking at Government Exhibit 12B here.

2 **MR. COOPER:** And I'm going to ask, Ms. Champoux,
3 first if we can zoom in on the top one third of the screen
4 here, just to make it a little easier for Tony.

5 **BY MR. COOPER:**

6 Q. Is this a DEA-6 opening a case?

7 A. Yes, case initiation.

8 Q. Okay. And what's the date the 6 was prepared?

9 A. This DEA-6 was prepared on June 8th, 2009.

10 Q. Okay. And who drafted this DEA-6 according to box 5 on
11 the left there?

12 A. It was drafted by Task Force Agent Cory Higgins.

13 Q. And who's the file title?

14 A. The file title of the case is Mark Suppa.

15 **MR. COOPER:** You can zoom out of that, Ms. Champoux.

16 Can you zoom in on the basis of investigation
17 section.

18 **BY MR. COOPER:**

19 Q. I'm not going to have you read the whole thing, but is
20 this DEA-6 generally about marijuana grows in the Southern
21 Tier area of New York?

22 A. Yes.

23 **MR. COOPER:** You can zoom out of that, Ms. Champoux.
24 Scroll to the next page, please.

25 Can you zoom in on targets of investigation all the

1 way to the bottom of indexing? Thank you. That's perfect.

2 **BY MR. COOPER:**

3 Q. Can you see this, sir?

4 A. Yes, I can.

5 Q. Can you read --

6 A. Yes.

7 Q. That's all right. Just speak right into the mic for me.

8 Yeah.

9 Can you read who the targets of Cory Higgins's

10 investigation were?

11 A. Targets of investigation will be Mark Suppa, Matt Suppa,

12 and Mike Masecchia, and others involved in this drug

13 organization.

14 Q. This indexing section at the bottom, is that an area to

15 list information about the people you're investigating?

16 A. Yeah. Typically, you would -- you would put your targets

17 down there in the indexing section.

18 Q. Is Mike Masecchia listed as a target there?

19 A. Yes, he is.

20 Q. Does it identify him as a possible partner or partner to

21 Mark Suppa?

22 A. Yes, according to this report, he's a partner to Mark

23 Suppa and possible money launderer.

24 Q. And I apologize, I misspoke. I think that name is -- no,

25 it's Mark Suppa. Is Mark Suppa indexed?

11:43AM 1 A. Yes, he is.

11:43AM 2 Q. Is Matt Suppa indexed?

11:43AM 3 A. Yes.

11:43AM 4 **MR. COOPER:** You can zoom out of that, Ms. Champoux,
11:43AM 5 and just leave the report up, please.

11:43AM 6 **BY MR. COOPER:**

11:43AM 7 Q. In 2009, my question specifically is, in the year 2009,
11:43AM 8 were you ever made aware that Cory Higgins was investigating
11:43AM 9 Mike Masecchia for drug trafficking?

11:43AM 10 A. No.

11:43AM 11 Q. You didn't know that?

11:43AM 12 A. No, not at that time.

11:43AM 13 Q. Now, you told us a few minutes ago that the defendant
11:43AM 14 called you in 2004 about your Masecchia case.

11:43AM 15 Did the defendant ever call you in 2009 to discuss
11:43AM 16 Masecchia?

11:44AM 17 A. No.

11:44AM 18 Q. Did the defendant ever call you and say. Hey, reach out
11:44AM 19 to Cory Higgins, he's investigating your guy Mike Masecchia?

11:44AM 20 A. No.

11:44AM 21 Q. Were you ever asked to share information about your
11:44AM 22 earlier 2004 Masecchia case with Cory Higgins?

11:44AM 23 A. No.

11:44AM 24 Q. Had you spoken with the defendant about your Masecchia
11:44AM 25 case before this 2009 investigation in Buffalo?

1 A. Yeah. When we first opened our case and they were
2 considering opening theirs.

3 **MR. COOPER:** You can take that down, please,
4 Ms. Champoux.

5 **BY MR. COOPER:**

6 Q. All right. We're going to fast forward again for a
7 moment here. And now I want to talk with you about your
8 first year in the Buffalo office around 2015. December of
9 2015 is when you arrived, right?

10 A. Correct.

11 Q. When you arrive, did ever hear the name Ron Serio?

12 A. At some point, I did.

13 Q. Okay. Did the hear the defendant talking about Ron
14 Serio?

15 A. I did, in a conversation with him.

16 Q. Okay. And what did the defendant say to you about his --
17 or, about Mr. Serio in around 2015?

18 A. Generally, it was in a conversation around -- I think it
19 was at Joe's desk. He had a file on his desk, it was a
20 criminal file, DEA criminal file. It was about that thick,
21 so it was pretty thick.

22 And I can't remember if he mentioned it to me or I asked
23 him about it. But he said that he had a case on a big
24 organization, on the Serio organization, which was Ron and
25 Tom Serio.

11:45AM 1 So, generally, that's what the conversation was.

11:45AM 2 Q. And you didn't arrive in Buffalo until December of '15;
11:45AM 3 is that correct?

11:45AM 4 A. Correct.

11:45AM 5 Q. So this conversation had to have occurred either December
11:45AM 6 of 2015 or after, right?

11:45AM 7 A. Correct.

11:45AM 8 Q. Okay. Based on the conversation you had with the
11:45AM 9 defendant where he told you he had a big case on these guys,
11:45AM 10 did it -- was he representing to you that this was an active
11:46AM 11 or open case?

11:46AM 12 **MR. SINGER:** Objection.

11:46AM 13 **MR. COOPER:** He was a participant in the
11:46AM 14 conversation.

11:46AM 15 **THE COURT:** Hang on. Overruled.

11:46AM 16 **THE WITNESS:** Could you repeat the question, please?

11:46AM 17 **BY MR. COOPER:**

11:46AM 18 Q. Yeah. Was the defendant representing to you, when he
11:46AM 19 said I've got a big case on these guys, that he had an active
11:46AM 20 case into Serio?

11:46AM 21 A. Yes.

11:46AM 22 Q. Was that how you took it when he said it to you?

11:46AM 23 A. My belief was it was an open case.

11:46AM 24 **MR. COOPER:** Ms. Champoux, can we please bring up
11:46AM 25 Government Exhibit 8B as in boy in evidence.

11:46AM 1 Can you zoom in on the top third of the page there?

11:46AM 2 Yeah. Thanks.

11:46AM 3 **BY MR. COOPER:**

11:46AM 4 Q. Is this a DEA-6 called a case closing?

11:46AM 5 A. Yes, it is.

11:46AM 6 Q. And what's the date that it's prepared?

11:46AM 7 A. That date is January 28th, 2015.

11:46AM 8 Q. Is that, you know, give or take a month, is that about a

11:46AM 9 year before this conversation that you had in December of

11:47AM 10 2015?

11:47AM 11 A. Yes.

11:47AM 12 **MR. COOPER:** You can zoom out of that, Ms. Champoux.

11:47AM 13 **BY MR. COOPER:**

11:47AM 14 Q. Who authored this report, sir?

11:47AM 15 A. Joseph Bongiovanni.

11:47AM 16 Q. And as you sit here today, do you know this Wayne

11:47AM 17 Anderson file title to be associated with the defendant's

11:47AM 18 purported Ron Serio investigation?

11:47AM 19 A. Yes.

11:47AM 20 Q. Did he tell you in that conversation that he closed the

11:47AM 21 file eleven months or twelve months earlier?

11:47AM 22 A. On this Wayne Anderson case?

11:47AM 23 Q. On his Serio investigation. Did the defendant tell you,

11:47AM 24 hey, it's been closed for a year?

11:47AM 25 A. Oh, no. No.

11:47AM 1 Q. He didn't say that?

11:47AM 2 A. No.

11:47AM 3 **MR. COOPER:** Okay. You can take that down,

11:47AM 4 Ms. Champoux.

11:47AM 5 **BY MR. COOPER:**

11:47AM 6 Q. Mr. Casullo, we've been talking quite a bit about Mike

11:48AM 7 Masecchia. During that conversation where the defendant

11:48AM 8 tells you that he's got a big case into these guys including

11:48AM 9 Ron Serio, does he tell you Mike Masecchia came up in the

11:48AM 10 case?

11:48AM 11 A. No.

11:48AM 12 Q. He didn't say that?

11:48AM 13 A. No.

11:48AM 14 Q. Now you guys kind of had a connection from years earlier

11:48AM 15 about Mike Masecchia, right?

11:48AM 16 A. Yes.

11:48AM 17 Q. The name Mike Masecchia didn't come up when the defendant

11:48AM 18 told you about his Serio case?

11:48AM 19 A. No.

11:48AM 20 Q. If it had, that would have been of interest to you,

11:48AM 21 right?

11:48AM 22 A. Yeah. That would have been interesting.

11:48AM 23 Q. Did the defendant tell you that he got toll records for

11:48AM 24 Mike Masecchia?

11:48AM 25 A. No.

11:48AM 1 Q. Did he tell you that he ran his subscriber information?

11:48AM 2 A. No.

11:48AM 3 Q. Did he tell you he caused him to be entered into DARTS?

11:48AM 4 A. No.

11:48AM 5 Q. Did he ask you to help him work on that Serio case?

11:48AM 6 A. No.

11:48AM 7 Q. And this was back when you guys got along, right?

11:48AM 8 A. Yes.

11:48AM 9 Q. You didn't have any problem with him at that time?

11:48AM 10 A. No.

11:48AM 11 Q. To your knowledge, did he have any problem with you at

11:48AM 12 that time?

11:48AM 13 A. No.

11:48AM 14 Q. Had you worked other cases together at that time period?

11:49AM 15 A. Again, I can't remember when that exact conversation took

11:49AM 16 place, but, yes, we had worked -- I can't remember if our

11:49AM 17 wiretap investigation was going on at the time where we were

11:49AM 18 partners, or another case where we did a controlled delivery

11:49AM 19 together, but we had worked together.

11:49AM 20 Q. Were you in the same group with him?

11:49AM 21 A. Oh, yes.

11:49AM 22 Q. Did he ever tell you, hey, Tony, I'm just too busy to do

11:49AM 23 surveillance on this, maybe you could help me? Did that ever

11:49AM 24 happen?

11:49AM 25 A. No.

1 Q. At the DEA, what's the deconfliction database used by
2 agents called?

3 A. It's called DARTS, D-A-R-T-S. It's an acronym, I can't
4 remember what it stands for.

5 Q. That's all right.

6 If you enter a phone number into DARTS, and someone else
7 has already entered that phone number into DARTS, what
8 happens?

9 A. It generally, if you enter a number to see if anybody
10 else is looking at the same phone number, possibly the same
11 targets, if someone has already entered that number in, I'll
12 get a response back on that system, DARTS, on a screen, and
13 it will show on the screen the case that it overlaps with.

14 So the other person that ran it, it will have their case
15 number. It will have the case agent's name. Maybe the
16 analyst that the agent's working with.

17 There's a remarks section, so if it was another DEA case,
18 it will be a, like, a short synopsis of why they put it into
19 the system.

20 But you could also have deconflictions with other
21 agencies outside of DEA, like FBI or Homeland Security. It
22 was like the same way. It would have the agent's name or the
23 analyst's name, but you could not read the remarks section if
24 it was another agency.

25 And then in addition to that, you would have an email

1 that would be automatically generated that would go to your
2 inbox showing the same overlap.

3 Like, the same thing that I'm looking at on the screen, I
4 also get an email that shows the same thing.

5 And it works that way on the other end where if somebody
6 runs a number that you put in, that will go to the agent that
7 initially put it in. So there's emails going on both ends.
8 So both people are aware that there's an overlap.

9 Q. Is the purpose of that DARTS deconfliction system to
10 encourage DEA agents to share information with one another?

11 A. Yes, it's to collaborate, it's to coordinate, to expand
12 investigations, officer safety. All of those types of
13 things.

14 Q. So hypothetically, if I put John -- if I was a DEA agent
15 and I put John Smith into DARTS, and then a year later you a
16 DEA agent puts John Smith into DARTS, am I gonna get an email
17 telling me that Tony Casullo just ran John Smith in DARTS?

18 A. Yeah, it will be an email going both ways.

19 Q. Are then you gonna get an email as well?

20 A. Yes.

21 Q. And is the purpose of that to encourage you and me to
22 talk to each other?

23 A. Yes, absolutely, to put each other in contact with each
24 other.

25 Q. Are those deconfliction emails auto-generated by the

1 DARTS system?

2 A. Yes, they are.

3 Q. I'm holding what's marked for identification as

4 Exhibit 26B, 26C, 26D, 26E, 26I, and 26M, as in Mary.

5 **MR. COOPER:** May I approach the witness?

6 **THE COURT:** You may.

7 **BY MR. COOPER:**

8 Q. Take a moment, sir, and look at those. And once you've

9 had a chance to review all six of them, look back up at me.

10 A. Just quickly go through them?

11 Q. Yeah. I want to know if you recognize them. So take

12 however much time you need, and see if you recognize them.

13 Do you recognize those documents, sir?

14 A. Yeah, I know what they are.

15 Q. Are those DARTS deconfliction or emails?

16 A. Yes.

17 Q. Were you a recipient or initiator on each of those

18 deconfliction notices?

19 A. I would have to look through to make sure that I was on

20 every one of these, but --

21 Q. Got it. That's fine. We'll take them one at a time,

22 but --

23 A. Yep.

24 Q. -- earlier we talked about how the conflict emails or the

25 deconfliction emails are auto-generated; is that correct?

11:55AM 1 A. Right.

11:55AM 2 Q. Are those examples of the auto-generated deconfliction
11:55AM 3 emails from DARTS?

11:55AM 4 A. Yes.

11:55AM 5 **MR. COOPER:** So these are already in evidence, Judge,
11:55AM 6 so I'm going to ask if I can approach the witness again.

11:55AM 7 **THE COURT:** Sure.

11:55AM 8 **MR. COOPER:** Thank you.

11:55AM 9 **BY MR. COOPER:**

11:55AM 10 Q. May I have those back, Tony?

11:55AM 11 **MR. COOPER:** And, Ms. Champoux, if we can pull up 26B
11:55AM 12 as in boy.

11:55AM 13 I'm sorry, ma'am. 26E. I misspoke.

11:55AM 14 **BY MR. COOPER:**

11:55AM 15 Q. All right. So I just want to take a moment here to kind
11:55AM 16 of orient ourselves to what we're looking at.

11:55AM 17 At the top of this document, this is kind of the top of
11:55AM 18 an email generally, is that what that looks like to you?

11:55AM 19 A. Yeah, it looks like the header information.

11:55AM 20 Q. Okay. Ask where it says from, the name Joseph
11:55AM 21 Bongiovanni is listed; is that correct?

11:55AM 22 A. Yes, it is.

11:55AM 23 Q. Now based on your experience using DARTS, receiving DARTS
11:56AM 24 deconflictions, is this an example of an email that's
11:56AM 25 auto-generated from DARTS?

11:56AM 1 A. This looks that. But the part at the top, I mean, this
11:56AM 2 whole thing is an auto-generated DARTS deconfliction. But
11:56AM 3 the header at the top looks like something different.

11:56AM 4 Q. Got it. That's what I want to focus on here is at the
11:56AM 5 top, is this an actual email versus an auto-generated DARTS
11:56AM 6 deconfliction email?

11:56AM 7 A. From looking at this, this looks to me on August 21st,
11:56AM 8 2018, Joe Bongiovanni looks like he forwarded this to Gregory
11:56AM 9 Yensan.

11:56AM 10 Q. Okay. And so do you see here where it says sent from my
11:56AM 11 iPhone?

11:56AM 12 A. Yes.

11:56AM 13 Q. That's not a common part of the auto-generated DARTS
11:56AM 14 deconflictions, right?

11:56AM 15 A. No.

11:56AM 16 Q. Underneath that, where it says begin forwarded message,
11:56AM 17 does this appear to be an auto-generated DARTS deconfliction
11:56AM 18 based on an entry that Curtis Ryan made into DARTS?

11:56AM 19 A. Yes.

11:56AM 20 Q. Where it says an investigative overlap was created by; is
11:57AM 21 that a reference to the fact that two people have looked into
11:57AM 22 the same number or target?

11:57AM 23 A. Yes.

11:57AM 24 Q. Below that, where it says DARTS request found, is that a
11:57AM 25 list of the different times that that target or number has

1 come up in DARTS?

2 A. Yeah, that's where the overlaps are.

3 Q. Okay. What does it say right underneath DARTS requests
4 found?

5 A. It is the responsibility of overlapped parties to contact
6 one another for sharing of information.

7 Q. Is that the purpose of DARTS?

8 A. Yes.

9 Q. Where it says Trinity item here, what is the Trinity item
10 that's being referenced there?

11 A. So, that's the telephone number that's being queried
12 through the system.

13 Q. Okay.

14 **MR. COOPER:** Ms. Champoux, if we can zoom in on this
15 bottom portion here for a second.

16 **BY MR. COOPER:**

17 Q. So the Trinity item that's listed in Government Exhibit
18 26 Echo on the first page, the first one, Trinity item 1, is
19 a phone number 716-578-0544; is that correct?

20 A. Correct.

21 Q. Okay. And then you said underneath that, it's going to
22 list the different times that that number's been run in
23 DARTS?

24 A. Right. So the first entry with Curtis Ryan, that shows
25 the individual that's running the number at that point. So,

1 on that date. And then his remarks.

2 And then beneath it were if that number was ever run
3 before.

4 Q. Got it. So let's work our way from the top, down.

5 The date that Curtis Ryan runs this number in DARTS,
6 what's that date?

7 A. August 21st, 2018.

8 Q. Okay. And does he put -- what does he put in the remarks
9 section?

10 A. Numbers associated with Ron Serio DTO.

11 Q. Okay. And did that cause a conflict in DARTS that
12 generated a deconfliction email?

13 A. Yes, it did.

14 Q. With what case?

15 A. With case number C2-13-0026.

16 Q. Okay. And what date was the entry made for this phone
17 number in that case number?

18 A. March 20th, 2013.

19 **MR. SINGER:** Judge, I'm sorry to interrupt. Can we
20 take a five-minute break? I apologize.

21 **THE COURT:** Yeah. Let's take a quick break.

22 Please remember my instructions. Don't discuss the
23 case with anyone, including each other. Don't make up your
24 minds.

25 See you back here in just a few minutes.

12:00PM 1 (Jury excused at 12:00 p.m.)

12:01PM 2 **THE COURT:** Mr. Singer ran out, so I'll ask you,
12:01PM 3 Mr. MacKay, anything from the defense?

12:01PM 4 **MR. MacKAY:** I have nothing to offer on my behalf,
12:01PM 5 Judge.

12:01PM 6 **THE COURT:** Great. Anything, Mr. Cooper?

12:01PM 7 **MR. COOPER:** No, Judge, thank you.

12:01PM 8 **THE COURT:** We'll wait for Mr. Singer to get back and
12:01PM 9 resume.

12:01PM 10 (Off the record at 12:01 p.m.)

12:01PM 11 (Back on the record at 12:06 p.m.)

12:06PM 12 (Jury not present.)

12:06PM 13 **THE COURT:** Are we ready to go?

12:06PM 14 **MR. SINGER:** Yes, Judge.

12:06PM 15 **THE COURT:** Are we ready to go?

12:06PM 16 **MR. COOPER:** Yes, sir.

12:06PM 17 **THE COURT:** Okay. Let's bring them back.

12:07PM 18 (Jury seated at 12:07 p.m.)

12:07PM 19 **THE COURT:** The record will reflect that all our
12:07PM 20 jurors are present again.

12:07PM 21 Mr. Cooper, you may continue.

12:07PM 22 **MR. COOPER:** Thank you, Judge.

12:07PM 23 **BY MR. COOPER:**

12:07PM 24 Q. So, Special Agent Casullo, where we left off was talking
12:07PM 25 about 26E.

12:07PM 1 **MR. COOPER:** And, Ms. Champoux, I asked if you could
12:07PM 2 bring that back up. Awesome.

12:07PM 3 **BY MR. COOPER:**

12:07PM 4 Q. And we were looking at this Trinity item for a number
12:07PM 5 ending in 0544, right?

12:08PM 6 A. Yes.

12:08PM 7 Q. And that's the number that generated the conflict?

12:08PM 8 A. Yes.

12:08PM 9 Q. And then we said the top line here is Curtis Ryan running
12:08PM 10 the number on August 21st of 2018, right?

12:08PM 11 A. Correct.

12:08PM 12 Q. And we read his remarks. And then the next line down is
12:08PM 13 the number that conflicted with Curtis Ryan's DARTS entry,
12:08PM 14 right?

12:08PM 15 A. Yes.

12:08PM 16 Q. And that entry occurred on March 20th of 2013; is that
12:08PM 17 correct?

12:08PM 18 A. Correct.

12:08PM 19 Q. And where it says request ran by, who does it list as the
12:08PM 20 person who ran the request?

12:08PM 21 A. Justin R. Borst.

12:08PM 22 Q. Do you know him to be an intelligence analyst at the DEA?

12:08PM 23 A. Yeah, he was a National Guard analyst assigned to our
12:08PM 24 office.

12:08PM 25 Q. Okay. Now, what do the remarks say for that second entry

1 for March 20th, 2013?

2 A. Number part of ongoing narcotics investigation in contact
3 with target number 716-830-3226, per S.A. Bongiovanni.

4 Q. Now, based on your experience working at the DEA and
5 working specifically in the Buffalo office, as well, does
6 this "per S.A. Bongiovanni" indicate to you that Bongiovanni
7 caused Borst to run this number in DARTS?

8 A. Yeah. In my experience, that would mean instead of
9 running the deconflictions himself, so you can run them
10 yourself as an agent, or if you're working with an analyst,
11 an analyst can help run those numbers for you, that you would
12 ask the analyst to help and run those numbers for you.

13 What an analyst typically would do is put per whoever
14 asked them to do it.

15 Q. Now, I want to pause on that document for a second.

16 **MR. COOPER:** And, Ms. Champoux, if we could take this
17 down, and pull up Government Exhibit 8A.

18 **BY MR. COOPER:**

19 Q. Is this case number, C2-13-0026, the same case number as
20 that DARTS entry from March of 2013 that we just looked at?

21 A. Yes.

22 **MR. COOPER:** Can you take that down, Ms. Champoux?

23 And if we can go to Government Exhibit 100A.1 in
24 evidence.

25 And if you can click on image 0491.

12:10PM

1

BY MR. COOPER:

12:10PM

2

Q. Do you see this phone number here, sir, 716-830-3226?

12:10PM

3

A. Yes.

12:10PM

4

Q. What's the name above that phone number?

12:10PM

5

A. Ron Serio.

12:11PM

6

MR. COOPER: Ms. Champoux, can you take that down and

12:11PM

7

bring us back to 26 Echo, please.

12:11PM

8

And if we can zoom in on the bottom section here

12:11PM

9

again? Thanks.

12:11PM

10

BY MR. COOPER:

12:11PM

11

Q. Is that the same phone number here listed in the remarks

12:11PM

12

section of Bongiovanni's deconfliction of this phone number?

12:11PM

13

A. Yes.

12:11PM

14

Q. So you can correct me if I'm wrong, but I want to see if

12:11PM

15

we understand this. The 716-578-0544 number was ran in DARTS

12:11PM

16

in March of 20th of 2013 as a number that was in contact with

12:11PM

17

Ron Serio's phone number; is that right?

12:11PM

18

A. Correct.

12:11PM

19

MR. COOPER: Can you take that down, Ms. Champoux, or

12:11PM

20

zoom out for now? Thank you.

12:12PM

21

Judge, if I could just have one second to get a page

12:12PM

22

number?

12:12PM

23

THE COURT: Yep.

12:12PM

24

BY MR. COOPER:

12:12PM

25

Q. Special Agent Casullo, as you sit here today, do you know

1 who that 0544 phone number belongs to?

2 A. No.

3 Q. Okay. If you looked at phone records like subscriber
4 information, would that help you know that information?

5 A. Yes.

6 Q. Okay. That's all right. We're going to come back in
7 just a second. I want to move on.

8 **MR. COOPER:** Ms. Champoux, can we pull up 26D as in
9 David.

10 **BY MR. COOPER:**

11 Q. All right. And looking just at the first page of this
12 document, sir, is this another auto-generated DARTS
13 deconfliction?

14 A. Yes, it is.

15 Q. Down here at the bottom of page 1, who's the person who
16 generated the investigative overlap?

17 A. That's me.

18 Q. Does it tell you when that investigative overlap was
19 created?

20 A. March 13th, 2019.

21 **MR. COOPER:** Ms. Champoux, if we can go to page 4 of
22 this document.

23 **BY MR. COOPER:**

24 Q. All right. At the top line of page 4 here, is this a
25 reference to a number that you put in DARTS on March 13th of

12:14PM 1 2019?

12:14PM 2 A. Yes, it is.

12:14PM 3 Q. Okay. And what did you put in your remarks section?

12:14PM 4 A. Numbers in contact with Frank Bifulco.

12:14PM 5 Q. Okay. Do you know Frank Bifulco to have a nickname or

12:14PM 6 alias?

12:14PM 7 A. Yes, sir.

12:14PM 8 Q. What was it?

12:14PM 9 A. Butchie.

12:14PM 10 Q. Okay. And was he, in the law enforcement community, at

12:14PM 11 that time believed to be associated with Italian Organized

12:14PM 12 Crime?

12:14PM 13 A. Yes.

12:14PM 14 Q. Let's look down at the third item.

12:14PM 15 What's the date of that third item for that

12:14PM 16 deconfliction?

12:14PM 17 A. March 20th, 2013.

12:14PM 18 Q. What's the file number?

12:14PM 19 A. C2-13-0026.

12:14PM 20 Q. Okay. And who ran that entry into DARTS on March 20th,

12:14PM 21 2013?

12:14PM 22 A. Justin Borst.

12:14PM 23 Q. Okay. And can you read the remarks section for his

12:14PM 24 entry?

12:14PM 25 A. Number part of ongoing narcotics investigation in contact

1 with target number 716-830-3226, per S.A. Bongiovanni.

2 Q. Okay. And is that 3226 number the same phone number for
3 Ron Serio that we looked at in Government Exhibit 100A.1 a
4 moment ago?

5 A. Yes, I believe so.

6 Q. And that file number, C2-13-0026, is that the same file
7 number for the Wayne Anderson file title that we looked at in
8 Exhibit 8A a moment ago?

9 A. Yes.

10 Q. I know there's a lot of phone numbers on these. The
11 phone number underneath your name, is that your contact
12 information?

13 A. That's my DEA-issued cell phone number.

14 Q. Is the purpose of having that number listed on here to
15 kind of encourage coordination if someone from a different
16 office reaches out?

17 A. Yes.

18 Q. Okay. Got it.

19 **MR. COOPER:** Can you scroll up a bit, Ms. Champoux?
20 Right there is perfect.

21 **BY MR. COOPER:**

22 Q. What's the phone number that's being run in DARTS that
23 causes that deconfliction generation?

24 A. I believe it's 716-866-2687.

25 Q. Okay.

12:16PM 1 **MR. COOPER:** Ms. Champoux, can we zoom in on that for
12:16PM 2 a second in the top here?
12:16PM 3 **BY MR. COOPER:**
12:16PM 4 Q. Does that help?
12:16PM 5 A. Yes.
12:16PM 6 Q. Go ahead, read the number for us.
12:16PM 7 A. 716-866-2687.
12:16PM 8 Q. Okay.
12:16PM 9 **MR. COOPER:** You can zoom out of that, Ms. Champoux.
12:16PM 10 And if we can go back to Government Exhibit 8A.
12:17PM 11 And this time, go to page 347.
12:17PM 12 **BY MR. COOPER:**
12:17PM 13 Q. Does the phone number that's listed on 26D match the
12:17PM 14 phone number that's listed on Government Exhibit 8A, page
12:17PM 15 347, under user information here?
12:17PM 16 A. Yes, it does.
12:17PM 17 Q. And whose phone number is that associated with according
12:17PM 18 to this record?
12:17PM 19 A. Paul Francoforte.
12:17PM 20 Q. Do you know that person to have an alias or another name
12:17PM 21 they go by?
12:17PM 22 A. Yes.
12:17PM 23 Q. What's that?
12:17PM 24 A. Hot Dog.
12:17PM 25 Q. Okay. And is it -- is that person's reputation in the

1 law enforcement community one of being associated with or
2 involved in organized crime?

3 A. Yes.

4 **MR. COOPER:** You can take down 8A, please,
5 Ms. Champoux.

6 Let's go back to 26D for a moment. Page 4.

7 And then just scroll up a tiny bit. Yeah, perfect.

8 Thank you, ma'am.

9 **BY MR. COOPER:**

10 Q. Special Agent Casullo, when you run Hot Dog's phone
11 number in DARTS, does that cause the other agents who have
12 previously entered Hot Dog's phone number in DARTS to get
13 notified?

14 A. Yes.

15 Q. Even if it's six years later like this is?

16 A. Yes.

17 Q. Is that how DARTS is designed to function?

18 A. Yes, it is.

19 **MR. COOPER:** We can take down 26D.

20 And if you wouldn't mind bringing up 26M, as in
21 Michael now.

22 **BY MR. COOPER:**

23 Q. Are we looking at another example of a DARTS
24 deconfliction email, sir?

25 A. Yes, it is.

1 Q. And is it again you who generated the conflict here?

2 A. Yes.

3 **MR. COOPER:** Can we go to page 2, Ms. Champoux?

4 Thank you. And let's -- I want to go now towards the bottom
5 of this page, Trinity item, the bottom third of page 2. If
6 you can zoom in on that, Ms. Champoux. Thank you.

7 **BY MR. COOPER:**

8 Q. What's the number that was entered into DARTS on this
9 deconfliction notice?

10 A. 716-984-5198.

11 Q. Okay. Let's work our way through here, again, at the
12 top, is this the time that you ran the number into DARTS?

13 A. Yes.

14 Q. What was the date that you did that?

15 A. January 15th, 2019.

16 Q. Okay. And on the right in the remarks section, what did
17 you list there?

18 A. Numbers in contact with Amherst, New York marijuana
19 trafficker, Dennis Tripi.

20 Q. Underneath that, can you walk us through the second row
21 in this deconfliction?

22 A. Yes, starting with the date?

23 Q. Yep, that's perfect.

24 A. The date listed is March 20th, 2013. The case number is
25 C2-13-0026. That number was ran by Justin Borst. And the

12:20PM 1 remarks indicate number part of ongoing narcotics
12:20PM 2 investigation in contact with 716-830-3226 per
12:20PM 3 S.A. Bongiovanni.
12:20PM 4 Q. Okay. And do you read what's written in that second row
12:20PM 5 to indicate that according to Special Agent Bongiovanni, this
12:20PM 6 phone number in the top left corner was in contact with Ron
12:20PM 7 Serio's phone number?
12:20PM 8 A. Correct.
12:20PM 9 Q. Now, again, this is an example of six years later, a
12:20PM 10 notification or a deconfliction being generated from a number
12:21PM 11 that you ran; is that correct?
12:21PM 12 A. Correct.
12:21PM 13 Q. Okay. Would that cause the defendant to be notified
12:21PM 14 according to DARTS?
12:21PM 15 A. Yes.
12:21PM 16 **MR. COOPER:** Ms. Champoux, if we can take that down
12:21PM 17 and pull up 26B as in Bravo.
12:21PM 18 **BY MR. COOPER:**
12:21PM 19 Q. Same thing, sir, another deconfliction email.
12:21PM 20 A. Yes.
12:21PM 21 Q. Okay. And is this one, again, generated by something
12:21PM 22 that you did up here at the top?
12:21PM 23 A. Yes, it is.
12:21PM 24 **MR. COOPER:** Okay. And if we scroll down,
12:21PM 25 Ms. Champoux, to page 2.

12:21PM 1 Let's zoom in on this top Trinity item here.

12:21PM 2 **BY MR. COOPER:**

12:21PM 3 Q. What's the number that you ran here?

12:21PM 4 A. 716-390-5553.

12:21PM 5 Q. What's the date that you ran that?

12:21PM 6 A. August 2nd, 2018.

12:21PM 7 Q. And what did you put in the remarks section when you ran
12:22PM 8 that phone number?

12:22PM 9 A. Numbers in contact with marijuana trafficker Anthony
12:22PM 10 Gerace.

12:22PM 11 Q. Had that number that you ran ever been put into DARTS
12:22PM 12 before?

12:22PM 13 A. Yes, it was.

12:22PM 14 Q. When?

12:22PM 15 A. March 20th, 2013.

12:22PM 16 Q. Who did it?

12:22PM 17 A. Justin Borst.

12:22PM 18 Q. What did he write in the remarks section?

12:22PM 19 A. Number part of ongoing investigation in contact with
12:22PM 20 target number 716-578-5296 per S.A. Bongiovanni.

12:22PM 21 **MR. COOPER:** Ms. Champoux, if you can zoom out of
12:22PM 22 that, but keep the exhibit up.

12:22PM 23 And then on the right, if you can pull up next to
12:22PM 24 this Government Exhibit 8A. And go to page 287.

25

1 BY MR. COOPER:

2 Q. Okay. So the number that's listed in the remarks section

3 here is 716-578-5296; did I get that right?

4 A. Correct.

5 Q. Do you see that listed on this subscriber information

6 subpoena return on page 287 of Government Exhibit 8A?

7 A. Yes.

8 Q. Who's that phone number associated with according to this

9 subscriber information subpoena return?

0 A. Thomas Serio.

1 Q. Now, in your DARTS deconfliction --

2 MR. COOPER: Can you leave this up, please?

3 BY MR. COOPER:

4 Q. In your DARTS deconfliction, who did you say that Thomas

5 Serio was in contact with?

6 A. Anthony Gerace.

7 Q. Is that based upon phone records that you had received?

8 A. Yes. Oh, I'm sorry, which number are we looking at?

9 Which Trinity number?

0 Q. Oh, okay. So, Trinity number here at the top.

1 A. Yes, 390-5553.

2 Q. That was a number in your investigation that was in

3 contact with Anthony Gerace, right?

4 A. Correct.

5 Q. And I think I misspoke, but in the bottom here, does that

12:24PM 1 indicate that that same phone number ending in 5553 was also
12:24PM 2 in contact with Tom Serio's phone number?

12:24PM 3 A. Yes.

12:24PM 4 Q. Okay. And did this cause a deconfliction to notify the
12:24PM 5 defendant when you ran this number in DARTS?

12:24PM 6 A. Yes.

12:24PM 7 Q. And do your remarks essentially tell the other people who
12:24PM 8 put that number in what you were working on, what you're
12:24PM 9 doing?

12:24PM 10 A. Yes.

12:24PM 11 **MR. COOPER:** If we can pull up 26I, please.

12:24PM 12 **BY MR. COOPER:**

12:24PM 13 Q. Is this another deconfliction email?

12:24PM 14 A. Yes, it is.

12:24PM 15 Q. Okay. And is this one dated November 9, 2018?

12:24PM 16 A. Yes.

12:24PM 17 **MR. COOPER:** If we can go to page 3, please,

12:24PM 18 Ms. Champoux.

12:24PM 19 Let's look at the second Trinity item that's listed.

12:25PM 20 Thank you, ma'am.

12:25PM 21 **BY MR. COOPER:**

12:25PM 22 Q. Can you see that better now?

12:25PM 23 A. Yes.

12:25PM 24 Q. What's the date there?

12:25PM 25 A. November 9, 2018?

12:25PM 1 Q. Okay. Underneath that, can you see an earlier DARTS
12:25PM 2 entry that showed up related to that same phone number ending
12:25PM 3 in 7760?
12:25PM 4 A. Yes.
12:25PM 5 Q. Okay. And what's the case number for that?
12:25PM 6 A. C2-13-0026.
12:25PM 7 Q. Is it entered by Borst again?
12:25PM 8 A. Yes.
12:25PM 9 Q. Do the remarks indicate that that was done on behalf of
12:25PM 10 Special Agent Bongiovanni again?
12:25PM 11 A. Yes.
12:25PM 12 Q. And is that 578-5296 phone number in the remarks section
12:25PM 13 the same phone number for Tom Serio that we were just looking
12:25PM 14 at?
12:25PM 15 A. Yes.
12:25PM 16 Q. Would this DARTS deconfliction have caused the defendant
12:26PM 17 to be notified that someone else ran this number that was in
12:26PM 18 contact with Tom Serio?
12:26PM 19 A. Yes.
12:26PM 20 **MR. COOPER:** You can take that down, please,
12:26PM 21 Ms. Champoux. And I think last but not least, Government
12:26PM 22 Exhibit 26C as in Charlie.
12:26PM 23 **BY MR. COOPER:**
12:26PM 24 Q. Is this another deconfliction email?
12:26PM 25 A. Yes.

12:26PM 1 **MR. COOPER:** Can we zoom in on the bottom part of
12:26PM 2 page 1 here, Ms. Champoux, the first Trinity item?

12:26PM 3 **BY MR. COOPER:**

12:26PM 4 Q. What date did you run this phone number?

12:26PM 5 A. August 2nd, 2018.

12:26PM 6 Q. And is the phone number that you're running that same
12:26PM 7 578-5296 phone number?

12:26PM 8 A. Yes.

12:26PM 9 Q. Is that associated with Tom Serio?

12:26PM 10 A. Yes.

12:26PM 11 Q. When you ran that number on August 2nd, 2018, what did
12:26PM 12 you put in your remarks?

12:26PM 13 A. Number part of ongoing marijuana investigation. I
12:27PM 14 remember running this one.

12:27PM 15 Q. Okay. And are there two DARTS entries beneath that, or
12:27PM 16 two rows beneath that indicating prior DARTS entries for
12:27PM 17 Mr. Serio's phone number?

12:27PM 18 A. Yes.

12:27PM 19 Q. Okay. We're going to go backwards in time, so we'll go
12:27PM 20 to the bottom one first. Is that March 12th of 2013?

12:27PM 21 A. Yes.

12:27PM 22 Q. Who entered that one on March 12th, 2013?

12:27PM 23 A. Stephen Bevilacqua.

12:27PM 24 Q. Is he another intel analyst at the DEA at that time?

12:27PM 25 A. He's a DEA analyst, yeah.

1 Q. And what did Analyst Bevilacqua put in the remarks
2 section of his March 12th, 2013 entry?

3 A. Narcotics investigation number for Thomas Serio per
4 S.A. Bongiovanni.

5 Q. Okay. And then even before that in time, was there an
6 entry earlier from July 6 of 2012?

7 A. Yes.

8 Q. Was that a different case number from the one we just
9 looked at?

10 A. Yes.

11 Q. The one we just looked at, was that same 13-0026, right?

12 A. Yes.

13 Q. And then this middle one is a 12-0090; is that correct?

14 A. Correct.

15 Q. Was that ran by Justin Borst?

16 A. Yes.

17 Q. And does he say that was per Special Agent Nastoff?

18 A. Yes, he does.

19 Q. Okay. And that's about a year, give or take a few
20 months, before the defendant causes Bevilacqua to run that
21 number, right?

22 A. Correct.

23 **MR. COOPER:** You can zoom out of that, Ms. Champoux.
24 Leave it up for now.

25

25	A. Yes.
----	---------

1 Q. Okay. When you did that, did that cause the defendant to
2 get notified that you had ran Anthony Gerace's phone number
3 in DARTS?

4 A. Could you show me that specific --

5 Q. Sure.

6 A. -- deconfliction?

7 Is this the one you're speaking of?

8 **MR. COOPER:** You can take that down for a second,
9 Ms. Champoux.

10 **THE WITNESS:** Okay.

11 **BY MR. COOPER:**

12 Q. Let's work -- let's work through it this way, sir.

13 Did there come a time after you ran Anthony Gerace's
14 phone records in DARTS when the defendant came up to discuss
15 that with you?

16 A. Oh, yes.

17 Q. Okay. Can you tell the jury about that?

18 A. Sure. Yeah.

19 So I ran Anthony Gerace's phone records on different
20 occasions, once early on I believe in 2016, then again in
21 August 2018 I believe, and then again afterwards in -- I
22 think it was, like, January of 2019.

23 When I ran them in 2019, Anthony Gerace's phone records,
24 it was related to the burglary at Michael Sinatra's house.

25 Prior to that, I was running them specifically on the

1 investigation of marijuana related to Anthony Gerace.

2 So, I believe it was the August 2018 when I ran Anthony
3 Gerace's phone records, on that occasion Bongiovanni came
4 over to my desk to speak to me.

5 Q. What was his demeanor like when he came over to your desk
6 to speak to you?

7 A. So, he walked over to our side of the group, which was
8 different from D-57. I saw him walk in. I saw him glance
9 towards my desk.

10 I believe at the time I was talking to Curtis Ryan from
11 Homeland Security, who was my partner during the
12 investigation of Anthony and Peter Gerace, at some point.

13 And he walked in to the part of the office where the
14 secretaries sat, and spoke to one of the secretaries, and
15 then came out. And then he paced back.

16 And he did this, like, several times, and I'm noticing
17 this.

18 At some point, Curtis Ryan walks away, and then he came
19 over to my desk.

20 And when he came over to my desk, I can't remember if he
21 was holding the actual DARTS deconfliction or not, he came
22 over he said I noticed that you're running deconflictions for
23 Anthony Gerace. It came up in your investigation, whatever
24 his words were, related to Anthony Gerace and the
25 deconfliction.

1 And he said, which -- at the time, I was pretty unsettled
2 of. So, he mentions that he -- his wife is friends with
3 Anthony Gerace on Facebook or his friend group. That he
4 couldn't help in the investigation, but his wife could
5 because they knew -- because she knew these people through
6 Facebook. And that he has his loads of marijuana delivered
7 to him behind Santora's. Has -- Anthony Gerace also supplies
8 his friends with cocaine. And you better hurry up and
9 investigate him before they make marijuana legal.

10 Q. When the defendant told you that, you better hurry up and
11 investigate Anthony Gerace before they make marijuana legal,
12 did you get the impression that he was mocking you for
13 investigating that?

14 A. Mocking me. I don't know if that was his way of trying
15 to dissuade me from investigating Anthony Gerace, but, yes.

16 Q. Did the defendant -- you mentioned that the defendant
17 told you some information about where Anthony Gerace was
18 getting his loads of marijuana delivered; do you remember
19 that?

20 A. Yes.

21 Q. Did he tell you why he wasn't investigating Anthony
22 Gerace if he knew where he was getting loads of marijuana
23 delivered?

24 A. No.

25 Q. Did you want to continue that conversation?

12:33PM 1 A. No. Not at all. I was squirming. I was squirming.

12:33PM 2 Q. You said you were squirming. Were you uncomfortable
12:33PM 3 sitting there?

12:33PM 4 A. Extremely uncomfortable.

12:33PM 5 Q. Speaking of being uncomfortable, let's stay on this topic
12:34PM 6 for a second.

12:34PM 7 Have you testified at a previous proceeding before?

12:34PM 8 A. Yes.

12:34PM 9 Q. Okay. Before you testified at the prior proceeding,
12:34PM 10 before you came into this courtroom and sat in that chair,
12:34PM 11 were you sitting outside in the hallway?

12:34PM 12 A. Are you talking about the --

12:34PM 13 Q. The prior proceeding when you testified --

12:34PM 14 A. Yes.

12:34PM 15 Q. -- in this courtroom --

12:34PM 16 A. Yes.

12:34PM 17 Q. -- in that chair, were you sitting outside in the
12:34PM 18 hallway?

12:34PM 19 A. Yeah, there was several occasions.

12:34PM 20 Q. Okay. Was there an occasion while you were sitting
12:34PM 21 outside in the hallway before getting in that chair to offer
12:34PM 22 testimony that the defendant came over to you and made some
12:34PM 23 comments to you?

12:34PM 24 A. He was walking by me as I was sitting with Special Agent
12:34PM 25 Ralph Joseph.

12:34PM 1 Q. Did the defendant say something to you?

12:34PM 2 A. Oh, he did, in --

12:34PM 3 Q. And what did he say to you?

12:34PM 4 A. In passing, he said that, what are you? His protection?

12:34PM 5 Talking to me, and Ralph Joseph from the FBI.

12:34PM 6 Q. Did that make you uncomfortable?

12:34PM 7 A. Extremely uncomfortable. Very unsettling.

12:34PM 8 Q. Was that right before you came to sit in a chair just

12:34PM 9 like this one and offer testimony?

12:34PM 10 A. Between breaks of testimony. I was just testifying, and

12:35PM 11 getting ready to go back on and testify.

12:35PM 12 Q. All right. We're going to move on for a second.

12:35PM 13 I want to talk to you about a name Mark Vitale. Are you

12:35PM 14 familiar with that name?

12:35PM 15 A. I am.

12:35PM 16 **MR. COOPER:** Ms. Champoux, if we can go to Government

12:35PM 17 Exhibit 100A.1, please, and pull up a PDF entitled Vitale

12:35PM 18 Sprint sub info.

12:35PM 19 Just if we can zoom out a couple of clicks there.

12:35PM 20 That's perfect. Thank you.

12:35PM 21 **BY MR. COOPER:**

12:35PM 22 Q. Do you see this document in front of you, sir?

12:35PM 23 A. Yes.

12:35PM 24 Q. Does this appear to be a response back from Sprint

12:35PM 25 regarding the subpoena that you issued?

12:35PM 1 A. Yes.

12:35PM 2 Q. Is it addressed to you at the top here?

12:35PM 3 A. Yes, it is.

12:35PM 4 Q. Okay. Does this document indicate that at some point,

12:36PM 5 you had caused a subpoena to be generated for phone records

12:36PM 6 related to Mark Vitale?

12:36PM 7 A. I'm sorry, could you repeat that?

12:36PM 8 Q. Does that document indicate you, at some point, had

12:36PM 9 caused a subpoena to be issued for Mark Vitale's phone

12:36PM 10 records?

12:36PM 11 A. Does it say Mark Vitale?

12:36PM 12 **MR. COOPER:** Ms. Champoux, can you scroll down?

12:36PM 13 Pause right there.

12:36PM 14 **BY MR. COOPER:**

12:36PM 15 Q. Do you see the name listed here in the account details

12:36PM 16 section?

12:36PM 17 A. Yes.

12:36PM 18 Q. And what's the name that's listed there?

12:36PM 19 A. Michelle Vitale.

12:36PM 20 Q. Is that the same last name as Mark Vitale that I'm asking

12:36PM 21 you about?

12:36PM 22 A. Yes.

12:36PM 23 Q. And is the date range of these phone records

12:36PM 24 November 2015 to December of 2015?

12:36PM 25 A. Yes.

12:36PM 1 **MR. COOPER:** You can scroll back up to the first
12:37PM 2 page.

12:37PM 3 **BY MR. COOPER:**

12:37PM 4 Q. Does this appear to you to be a subpoena for Vitale's
12:37PM 5 toll records?

12:37PM 6 A. Again, I don't remember this specifically, but yes.

12:37PM 7 Q. Okay. It has your name on it, right?

12:37PM 8 A. Yes.

12:37PM 9 Q. Okay. And the name for the subscriber information has
12:37PM 10 the last name Vitale --

12:37PM 11 A. Yes.

12:37PM 12 Q. -- is that right?

12:37PM 13 A. Yes.

12:37PM 14 Q. Okay. And do you have any reason to think you didn't run
12:37PM 15 this subpoena for Vitale subscriber?

12:37PM 16 A. No.

12:37PM 17 Q. Okay. The document that we're looking at, the PDF
12:37PM 18 entitled to Vitale Sprint sub info.PDF, do you know where
12:37PM 19 this document was recovered from, sir?

12:37PM 20 A. No.

12:37PM 21 Q. Is there any legitimate law enforcement reason that you
12:37PM 22 know of for the defendant to have had this subpoena return
12:37PM 23 for a subpoena that you issued related to Mark Vitale in his
12:37PM 24 basement after he retired?

12:37PM 25 **MR. SINGER:** Objection, speculation.

23 A. Yes. It was a, like, an organizational chart that we do
24 during investigations, showing targets and how they're
25 related to each other. And there were numerous targets on

12:39PM 1 there, and Joe Bella was part of it.

12:39PM 2 Q. Okay. Did the defendant end up coming to that meeting?

12:39PM 3 A. Yes.

12:39PM 4 Q. Did he mention during that meeting whether he knew Joe

12:39PM 5 Bella or anything about that?

12:39PM 6 A. No.

12:39PM 7 Q. Did he mention that he saw Joe Bella socially at The

12:39PM 8 Crocodile Bar?

12:39PM 9 A. No.

12:39PM 10 **MR. SINGER:** Objection to the form of the question.

12:39PM 11 **MR. COOPER:** I'm asking --

12:39PM 12 **MR. SINGER:** Assumes a fact not in evidence.

12:39PM 13 **MR. COOPER:** I'm asking if the defendant said
12:39PM 14 something during a meeting. That's the only way to find out.

12:39PM 15 **THE COURT:** Overruled.

12:39PM 16 **BY MR. COOPER:**

12:39PM 17 Q. Did the defendant, when he walked into the meeting, say,
12:39PM 18 hey, Tom, your target of investigation, I see him sometimes
12:39PM 19 socially at The Crocodile Bar?

12:39PM 20 **MR. SINGER:** Objection to the form of the question.
12:39PM 21 Seeing him socially, Judge, that wasn't established in the
12:39PM 22 evidence.

12:39PM 23 **THE COURT:** Whether it was established or not, he's
12:39PM 24 asking whether the defendant said that to him.

12:39PM 25 So, and the jury understands that that facts assumed

1 in a question, and I've instructed them before and I'll
2 instruct them again, and I'll instruct them right now, facts
3 that are assumed in a question are not necessarily true
4 because they're assumed in the question. Okay?

5 So the question is: Did the defendant say that he
6 saw Joe Bella socially in The Crocodile Bar?

7 The objection to that question is overruled.

8 **BY MR. COOPER:**

9 Q. Did he say that during the meeting, sir?

10 A. No.

11 Q. Did he say anything about knowing Joe Bella at all during
12 the meeting?

13 A. No.

14 Q. During the course of your career, Special Agent Casullo,
15 have you ever had an agent mention during a deconfliction
16 meeting or an intelligence-sharing meeting that they knew a
17 subject or a target, or had seen them at a bar or a social
18 setting?

19 A. Yeah, I've had that come up before.

20 Q. Okay. Is it common for an agent to bring that up during
21 a meeting like that, if it happens?

22 A. If it happened, it would be common for them to mention
23 that they know a certain individual.

24 Q. Okay.

25 A. If a name comes up or you know someone during an

12:41PM 1 investigation, yes.

12:41PM 2 Q. Do drugs sometimes get distributed at bars?

12:41PM 3 A. To the best of my knowledge and experience, yes.

12:41PM 4 Q. Has that come up during some of your DEA investigations

12:41PM 5 in your career?

12:41PM 6 A. It has for me in my career.

12:41PM 7 Q. All right. Let's move on from that, and let's talk about

12:41PM 8 Peter Gerace, okay?

12:41PM 9 A. Yes.

12:41PM 10 Q. Do you know who Peter Gerace is?

12:41PM 11 A. Yes, I do.

12:41PM 12 Q. How do you know who Peter Gerace is?

12:41PM 13 A. I know Peter Gerace because I graduated from Saint Joe's

12:41PM 14 High School with him in 1985.

12:41PM 15 Q. Okay. When you went to high school, between 1981 and

12:41PM 16 1985, were you friends with Peter Gerace?

12:41PM 17 A. No.

12:41PM 18 Q. After you graduated from high school, when you were in

12:41PM 19 your late teens and early 20s, were you friends with Peter

12:41PM 20 Gerace?

12:41PM 21 A. No.

12:41PM 22 Q. In your mid 20s, were you friends with Peter Gerace?

12:41PM 23 A. No.

12:41PM 24 Q. How about your late 20s, sir?

12:41PM 25 A. No.

1 Q. When you were in your early 30s, were you friends with
2 Peter Gerace?

3 A. No.

4 Q. How about your mid 30s?

5 A. No.

6 Q. How about your late 30s?

7 A. No.

8 **MR. SINGER:** Objection, Judge. I think we get the
9 idea.

10 **THE COURT:** Sustained.

11 **BY MR. COOPER:**

12 Q. At any point in your entire life, sir, have you ever been
13 friends with Peter Gerace?

14 **MR. SINGER:** Objection. Cumulative.

15 **MR. COOPER:** It's a different question.

16 **THE COURT:** No, no, that is a different question.

17 **BY MR. COOPER:**

18 Q. I'll ask again. Sir, at any point during your -- how old
19 are you?

20 A. I am 57.

21 Q. At any point in the 57 years that you've been on planet
22 Earth, have you ever been friends with Peter Gerace?

23 A. No.

24 Q. Do you have a family member who's friends with Peter
25 Gerace?

12:42PM 1 A. Yes.

12:42PM 2 Q. Who's that family member?

12:42PM 3 A. My wife's brother, Phil Domiano, is friends with Peter
12:42PM 4 Gerace.

12:42PM 5 Q. Can you describe your relationship with Mr. Domiano?

12:42PM 6 A. I do not have a talking -- I -- I do not have a
12:42PM 7 relationship with Phil Domiano. We don't talk. He's not
12:42PM 8 allowed at our house. And I haven't seen him in years.

12:42PM 9 And my wife won't even bring up his name in front of me.

12:42PM 10 Q. Do you know or believe Mr. Domiano to associate with
12:43PM 11 people that you don't approve of?

12:43PM 12 A. Yes, I believe so.

12:43PM 13 Q. Has your relationship with Mr. Domiano influenced how you
12:43PM 14 do your job at the DEA in any way?

12:43PM 15 A. No.

12:43PM 16 Q. While we're on the topic of Phil Domiano and Peter
12:43PM 17 Gerace, let's bring up Government Exhibit 99.

12:43PM 18 **MR. COOPER:** Ms. Champoux, can you zoom in on the top
12:43PM 19 one third of this document down to the exhibit sticker?

12:43PM 20 You've got to get the very top, too, for me. I'm
12:43PM 21 sorry.

12:43PM 22 **BY MR. COOPER:**

12:43PM 23 Q. Have you seen this before today?

12:43PM 24 A. When I testified before.

12:43PM 25 Q. You've looked at this before, right?

12:43PM 1 A. Yes.

12:43PM 2 Q. Does this appear to be a DEA memorandum?

12:43PM 3 A. Yes, it is.

12:43PM 4 Q. Okay. And what's the subject line of the memorandum?

12:43PM 5 A. Communication with Peter Gerace by Special Agent Anthony
12:44PM 6 Casullo and Phil Domiano.

12:44PM 7 Q. What's the date the memorandum was drafted?

12:44PM 8 A. January 28th, 2019.

12:44PM 9 Q. Now we're going to cover the comments in a little bit,
12:44PM 10 and the -- what you reported.

12:44PM 11 But by January 28th of 2019, had you already reported
12:44PM 12 that this defendant made race-related comments in front of
12:44PM 13 you?

12:44PM 14 A. Yes.

12:44PM 15 Q. You had already reported that?

12:44PM 16 A. Yes.

12:44PM 17 Q. Who wrote the memo?

12:44PM 18 A. S.A. Joseph Bongiovanni.

12:44PM 19 Q. And who did he send it to?

12:44PM 20 A. To Edward A. Orgon, the resident agent in charge in
12:44PM 21 charge of the Buffalo office.

12:44PM 22 **MR. COOPER:** You can zoom out of that, please,
12:44PM 23 Ms. Champoux.

12:44PM 24 Let's look at the second sen -- zoom in on the first
12:44PM 25 paragraph, please.

1 the evening of June 13th, 2015.

2 Q. Sir, is that the truth, or is that a lie?

3 A. That is a lie.

4 Q. Can you tell the jury what actually happened there?

5 A. Yes, I can.

6 Q. Explain it to them.

7 A. So, on that date of June 13th, 2015, that, I believe, is
8 the date of my high school reunion for Saint Joe's. It was
9 our 30-year reunion.

10 I was still working in New York City. I would come home
11 on weekends when I could to visit my family.

12 On this particular weekend, we had our high school
13 reunion, which I attended. While I was at the reunion, Peter
14 Gerace was there. We probably had about 50 classmates that I
15 can remember, approximately, at the reunion.

16 At some point, Peter started talking to me. And he had
17 mentioned that Bongiovanni was across the street at Tappo
18 Restaurant, and if I wanted to go see him.

19 And I said no, initially, I did not want to walk across
20 the street with Peter Gerace.

21 He mentioned it a second time. Like, he asked me again
22 right after that, and I said no.

23 And then he mentioned that he's across the street with my
24 brother, let's just walk across the street. It's right over
25 there. Which it is, it is right across the street, and I

12:47PM 1 agreed. I wanted to see with my own eyes that he was hanging
12:47PM 2 out with Anthony Gerace.

12:47PM 3 So I walked across the street with Peter. We walked into
12:47PM 4 Tappo Restaurant. And at the bar was sitting Joe Bongiovanni
12:47PM 5 and it was three or four other individuals that I didn't
12:47PM 6 recognize.

12:47PM 7 When we walked up to Joe, he looked extremely surprised
12:47PM 8 to see me. It looked like he wanted to crawl under the bar.

12:48PM 9 He had said, what are you doing here, I thought you're
12:48PM 10 working in New York?

12:48PM 11 I said I am, I'm working in New York, and I'm home on the
12:48PM 12 weekend for my high school reunion.

12:48PM 13 I can't remember what he said right after that, but
12:48PM 14 shortly thereafter he said -- he introduced me to the other
12:48PM 15 people that he was with. The first person that he introduced
12:48PM 16 me to, which was right next to him, was Anthony Gerace.

12:48PM 17 Anthony Gerace, this is Tony Casullo.

12:48PM 18 Looked at him -- I looked at him. He tried to avoid eye
12:48PM 19 contact with me. Shook his hand.

12:48PM 20 He introduced me to the other individuals who I can't
12:48PM 21 remember because I was kind of fixated on Anthony Gerace.
12:48PM 22 Shook their hands.

12:48PM 23 Had a couple moments of conversation. I can't remember
12:48PM 24 how long. Not long, maybe several minutes.

12:48PM 25 And Joe agreed to walk back across to our reunion. I

1 said I want to get back to the reunion. And me, Peter
2 Gerace, and Bongiovanni walked back over to Tappo's, there's
3 an outside area and an inside, I believe at the time. The
4 reunion was in both locations, but most people were outside.
5 We walked back into the outside area.

6 I walked off into my group of friends, which were more
7 like the hockey guys that I played with. And Bongiovanni
8 kind of faded off into a group with other people. I remember
9 one particular individual that I went to high school with
10 that was a football player, I remember them hugging each
11 other because they must have known each other.

12 And, yeah, that's pretty much it.

13 Q. When this sentence says that Special Agent Bongiovanni
14 witnessed you, Tony Casullo, drinking socially with Peter
15 Gerace alone, is that true?

16 A. That's a lie.

17 Q. Did that happen?

18 A. No.

19 Q. Who was alone drinking with Anthony Gerace?

20 A. It was Joe Bongiovanni with Anthony Gerace and two or
21 three other individuals.

22 **MR. COOPER:** You can zoom out of that, Ms. Champoux.
23 Take down Exhibit 99. Thank you.

24 **BY MR. COOPER:**

25 Q. During your time at the DEA, did you ever attempt to

1 investigate Peter Gerace?

2 A. Yes.

3 Q. Did that investigation include Pharaoh's Gentlemen's

4 Club?

5 A. Yes.

6 Q. Was there actually something that was said to you by a

7 different person at your high school reunion that was a part

8 of what made you interested in investigating Peter Gerace?

9 A. That was part of it.

10 Q. Okay. So that -- what someone else said to you, did that

11 form part of the reason why you pursued an investigation into

12 Peter?

13 A. Oh, yes.

14 Q. Can you tell the jury what that person said to you?

15 A. I had one particular classmate who works for the district

16 attorney's office in a law enforcement capacity as a

17 prosecutor. He had told me that --

18 **MR. SINGER:** Objection, hearsay.

19 **MR. COOPER:** Judge, I can come up?

20 **THE COURT:** Well, so, this is being offered for the

21 reason why this witness did what he did in investigating Peter

22 Gerace. It's not being offered for the truth. So, again, you

23 can't assume that what the person said to him is true. You're

24 being told this only insofar as it prompted this witness to do

25 something. Okay?

1 The objection is sustained in part and overruled in
2 part. We can go on.

3 **MR. COOPER:** Thank you, Judge.

4 **BY MR. COOPER:**

5 Q. Go on, tell them what this person said to you.

6 A. So the one classmate who is a friend of mine from high
7 school also grew up in Tonawanda, anyways, he was a
8 prosecutor, may still be, at the District Attorney's Office.
9 He told me that he heard that Peter Gerace was videotaping
10 all the people coming in his club.

11 And I took it as in order to blackmail people. He had
12 recordings of people with strippers, and he said Peter's
13 recording everybody that's going in there, you know.

14 I was, like, no, I didn't know that.

15 I had an another classmate tell me, screaming at me with
16 his group of friends that they were all gonna go to Pharaoh's
17 and snort coke off strippers' asses.

18 Q. Is that something that you were gonna -- you were
19 interested in going to do?

20 A. No. No.

21 Q. Not the social activity for you, sir?

22 A. No.

23 Q. Okay. Did you hear people say that?

24 A. I heard my classmate say it directly to me. He actually
25 said, hey, Casullo, we're all going over to Pharaoh's to

12:52PM 1 sniff coke off strippers' asses.

12:52PM 2 Q. Okay. Did that impact your interest in investigating
12:52PM 3 Peter and Pharaoh's?

12:52PM 4 A. Yes.

12:52PM 5 Q. Did the fact that you went to high school with Peter have
12:52PM 6 anything to do with whether or not you were going to
12:52PM 7 investigate him?

12:52PM 8 A. No.

12:52PM 9 Q. Were you his friend?

12:52PM 10 A. No.

12:52PM 11 Q. What year did you begin your investigation into Peter
12:52PM 12 Gerace?

12:52PM 13 A. It was, I believe, the summer of 2016. Maybe June of
12:52PM 14 2016, approximately.

12:52PM 15 Q. So just to get this timeline squared aware here, you
12:52PM 16 arrived in the Buffalo resident office at the very end of
12:52PM 17 2015; is that right?

12:52PM 18 A. It was September of 2015.

12:52PM 19 Q. Okay. So the fall of 2015?

12:52PM 20 A. Yes.

12:52PM 21 Q. Okay. And so within your first year in the Buffalo
12:53PM 22 office, you begin an investigation into Peter Gerace; is that
12:53PM 23 correct?

12:53PM 24 A. Yes.

12:53PM 25 Q. Were you aware at the time you began that investigation

1 that Mr. Gerace had previously been convicted of a felony?

2 A. Yes.

3 Q. When you first began that investigation into Peter

4 Gerace, what investigative step did you take?

5 A. Before I did anything, I mentioned it to my supervisor,

6 Greg Yensan.

7 I mentioned, hey, how do you feel about if we take a look

8 at start investigating Peter Gerace? And he said he thought

9 it was a good idea. That we may --

10 **MR. SINGER:** Objection, hearsay.

11 **MR. COOPER:** Judge, I don't even think it's offered

12 for its truth, it's about how he got to be investigating

13 Peter.

14 **THE COURT:** Hang on.

15 Well, why don't you answer the question he asked,

16 which is: What investigative steps did you take?

17 **MR. COOPER:** I'll ask some more specific questions

18 and see if we can avoid -- we'll just get through it.

19 **BY MR. COOPER:**

20 Q. Did you, when you decided to investigate Peter Gerace, go

21 and discuss that with your supervisor?

22 A. Yes.

23 Q. Why did you do that, sir?

24 A. Because when you start an investigation, you as the agent

25 you have freedom -- in my experience, had the freedom to open

1 the investigation. But you coordinated that with your
2 supervisor.

3 And I've worked in an acting capacity as a supervisor for
4 many years. A supervisor does not want to be blinded by an
5 investigation that they're not even aware of, or an
6 investigation that's open. They want to be aware, like most
7 supervisors.

8 So in the normal course of business, I had that
9 discussion with my supervisor. Hey, what do you think about
10 this? What's your opinion? Because this is what I'd like to
11 do. I'd like to start looking into this, his club, and him.

12 And he agreed. He said, I don't know if we will seize a
13 lot of drugs directly from Gerace. I don't consider him,
14 like, a higher-level trafficker, and this is Greg talking,
15 but that through the investigation hopefully we can identify
16 a source of supply. And, yeah, that we should look into
17 this.

18 Q. Is that what you do at the DEA is work your way up
19 towards sources of supply?

20 A. Yes.

21 Q. You want to get the bigger drug targets?

22 A. Yes.

23 Q. Okay. At some point, did you make a determination that
24 you were going to subpoena Peter Gerace's phone records?

25 A. Yeah, and I mentioned that to Greg as well.

12:55PM 1 **THE COURT:** Mr. Cooper, when it's a good time to
12:55PM 2 break, we should break.

12:55PM 3 **MR. COOPER:** 10/4, Judge.

12:55PM 4 **THE COURT:** Now?

12:55PM 5 **MR. COOPER:** Yes, sir.

12:55PM 6 **THE COURT:** Let's do it. Remember my instructions.
12:55PM 7 And look it, I'm as sick of saying this just as you
12:55PM 8 are of hearing this, but I do it because it's so darn
12:56PM 9 important.

12:56PM 10 Don't communicate about the case with anyone. Don't
12:56PM 11 read, watch, or listen to any news coverage, if there is any,
12:56PM 12 while the case is in progress. And don't make up your mind
12:56PM 13 until you finally start deliberating.

12:56PM 14 See you back here at 2:00. Thanks.

12:56PM 15 (Jury excused at 12:56 p.m.)

12:57PM 16 **THE COURT:** Okay. Anything before we break?

12:57PM 17 **MR. COOPER:** No, thank you.

12:57PM 18 **THE COURT:** Anything before we break?

12:57PM 19 **MR. SINGER:** No, Your Honor.

12:57PM 20 **THE COURT:** Okay. Mr. Casullo, please do not discuss
12:57PM 21 anything about your testimony with anyone during the break.

12:57PM 22 **THE WITNESS:** Yes, Judge.

12:57PM 23 **THE COURT:** Okay. See you back at 2:00.

12:57PM 24 **MR. COOPER:** Thank you, Judge.

12:57PM 25 **THE CLERK:** All rise.

12:57PM 1 (Off the record at 12:57 p.m.)

02:06PM 2 (Back on the record at 2:06 p.m.)

02:06PM 3 (Jury not present.)

02:06PM 4 **THE CLERK:** All rise.

02:06PM 5 **THE COURT:** Please be seated.

02:06PM 6 **THE CLERK:** We are back on the record for the
02:06PM 7 continuation of the jury trial in case number 19-cr-227,
02:06PM 8 United States of America versus Joseph Bongiovanni.

02:06PM 9 All counsel and parties are present.

02:06PM 10 **THE COURT:** Ready to go?

02:06PM 11 **MR. COOPER:** Yes, Judge.

02:06PM 12 **THE COURT:** Anything?

02:06PM 13 **MR. SINGER:** No, Judge.

02:06PM 14 **THE COURT:** Okay. Great. Let's bring them in,
02:06PM 15 please.

02:08PM 16 (Jury seated at 2:08 p.m.)

02:08PM 17 **THE COURT:** The record will reflect that all our
02:08PM 18 jurors are present.

02:08PM 19 I remind the witness that he's still under oath.

02:08PM 20 And, Mr. Cooper, you may continue.

02:08PM 21 **MR. COOPER:** Thank you, Judge.

02:08PM 22 **BY MR. COOPER:**

02:08PM 23 Q. Special Agent Casullo, before the break, we had covered a
02:08PM 24 bunch of different DARTS deconfliction notices, and I think
02:08PM 25 the first one that we covered -- I kind of lost my place, and

1 I want to pivot back to that real quick.

2 **MR. COOPER:** Ms. Champoux, if we can pull up 26E as
3 in echo.

4 And then on the right side of the screen, ma'am, can
5 you pull up Government Exhibit 8A.

6 **BY MR. COOPER:**

7 Q. So on the left side of your screen, Special Agent
8 Casullo, can you see this was that first DARTS deconfliction
9 that we looked at that looks like it was forwarded from the
10 defendant to Greg Yensan on August 21st of 2018?

11 A. Correct.

12 **MR. COOPER:** Ms. Champoux, can we scroll down the
13 next page, please? Thank you.

14 **BY MR. COOPER:**

15 Q. So earlier I had you look at the first set of Trinity
16 items in the first set of deconflictions. I want to --

17 **MR. COOPER:** Stop scrolling. Can we go back down.
18 Thank you.

19 **BY MR. COOPER:**

20 Q. -- I want to focus you in now on this next Trinity item
21 that I just circled. Do you see the phone number there,
22 716-812-0664?

23 A. Yes.

24 Q. Okay. And is that the phone number that's being entered
25 into DARTS that's causing the conflict that we see inside the

02:09PM 1 box here?

02:09PM 2 A. Yes.

02:09PM 3 Q. Okay.

02:09PM 4 **MR. COOPER:** Ms. Champoux, on Exhibit 8A, if you can
02:09PM 5 go to page 134, please. And can you move the cursor, ma'am?
02:10PM 6 Thank you.

02:10PM 7 **BY MR. COOPER:**

02:10PM 8 Q. Do you see, Special Agent Casullo, the name down here
02:10PM 9 that's associated with this subscriber information subpoena
02:10PM 10 return?

02:10PM 11 A. Yes.

02:10PM 12 Q. What's the name?

02:10PM 13 A. Michael Masecchia.

02:10PM 14 Q. And down here where it lists account contact numbers,
02:10PM 15 what's the phone number that's listed?

02:10PM 16 A. 716-812-0664.

02:10PM 17 Q. And if we pivot back now to Government Exhibit 26E, is
02:10PM 18 this a deconfliction for Mike Masecchia's phone number?

02:10PM 19 A. Yes.

02:10PM 20 Q. Did Curtis Ryan run that number on August 21st of 2018?

02:10PM 21 A. Yes, he did?

02:10PM 22 Q. Before that, are there entries for Mike Masecchia's phone
02:10PM 23 number into DARTS in case file number C2-13-0026?

02:10PM 24 A. Yes.

02:10PM 25 Q. Did those occur in March and April of 2013?

02:10PM 1 A. Yes.

02:10PM 2 Q. Are those entered by an intel analyst on behalf of
02:11PM 3 Special Agent Bongiovanni?

02:11PM 4 A. Yes.

02:11PM 5 Q. Does that show up as a number that's in contact with this
02:11PM 6 Ron Serio phone number that we looked up earlier?

02:11PM 7 A. I can't remember Serio's number, but it's 716-830-3226.

02:11PM 8 Q. Okay. And so if we looked that up earlier and that was
02:11PM 9 Serio's number, that would be saying this Mike Masecchia
02:11PM 10 number on the top here was in contact with this 830-3226
02:11PM 11 phone number; is that right?

02:11PM 12 A. Correct.

02:11PM 13 **MR. COOPER:** All right. Thanks, Ms. Champoux. You
02:11PM 14 can take those two down now.

02:11PM 15 **BY MR. COOPER:**

02:11PM 16 Q. All right. And then pivoting back to where we left off,
02:11PM 17 excuse me, we spoke about your investigation into Peter
02:11PM 18 Gerace; do you remember I was talking about that?

02:11PM 19 A. Yes.

02:11PM 20 Q. Now earlier you mentioned that part of the predication
02:11PM 21 for your investigation, some of the things that led you to
02:11PM 22 initiate that investigation, were some comments that were
02:11PM 23 made by your classmates at your reunion; do you remember
02:12PM 24 that?

02:12PM 25 A. Yes.

02:12PM 1 Q. Now your reunion, wasn't that before you came back to
02:12PM 2 Buffalo?

02:12PM 3 A. Yes.

02:12PM 4 Q. Okay. So when you hear those things, are you still
02:12PM 5 working at the New York City office?

02:12PM 6 A. Yes.

02:12PM 7 Q. Were you planning to come back to Buffalo when you were
02:12PM 8 at that reunion?

02:12PM 9 A. I hadn't heard yet. I mean, the plan was all along to
02:12PM 10 come back to Buffalo. But at that point, I had no idea when
02:12PM 11 I was coming back.

02:12PM 12 Q. Okay. And so my question was at the time you're hearing
02:12PM 13 those things from your classmates, is it your hope to one day
02:12PM 14 come back and work in the Buffalo office?

02:12PM 15 A. Yes.

02:12PM 16 Q. But at the time, were you still in New York City?

02:12PM 17 A. Yes.

02:12PM 18 Q. Did you file that information away in your brain in case
02:12PM 19 you came back to work in Buffalo?

02:12PM 20 A. Oh, I remembered.

02:12PM 21 Q. Okay. And when you came back in fall of 2015, and you
02:12PM 22 started working in Buffalo, did you still remember what had
02:12PM 23 happened months earlier in the class reunion?

02:12PM 24 A. Oh, sure.

02:12PM 25 Q. Okay. Now, where we left off, I was talking about

1 Gerace's phone records; do you remember that?

2 A. Yes.

3 Q. Did you make a decision that you were going to subpoena
4 Peter Gerace's phone records?

5 A. I did.

6 Q. Okay. And did you have a discussion with your supervisor
7 about doing that?

8 A. Yes.

9 Q. Tell this jury why you decided to talk to your supervisor
10 about pulling Peter Gerace's phone records.

11 A. Again, if you're going to start an investigation, a new
12 investigation, you should talk to the supervisor so they know
13 what's going on so they're not blindsided by some subpoena
14 that comes across their desk or information that comes across
15 their desk.

16 If I were to complete the online process to do a
17 subpoena, it would have to be approved by a supervisor. So
18 he needed to be aware of what was going on.

19 And also, genuinely, I wanted his opinion on it as well,
20 and any feedback that he could give.

21 Q. Did there come a time when discussing Peter Gerace's
22 phone records with your supervisor that the defendant
23 Mr. Bongiovanni came up?

24 A. Did his phone number come up?

25 Q. No. Did you discuss with your supervisor Mr. Bongiovanni

1 in the context of Peter Gerace's phone records?

2 A. Yeah. Before I subpoenaed the numbers, I had a
3 conversation with Greg.

4 Q. Can you describe your conversation with Greg to this jury
5 about before you subpoenaed the phone numbers that involved
6 this defendant.

7 A. Yes.

8 **MR. SINGER:** Judge, I'd just want to -- I object to
9 hearsay. If Mr. Casullo is going to share what he said to
10 Yensan, that's allowable. But I just want to make sure we're
11 not talking about what Yensan said back.

12 **THE COURT:** I'm not sure why -- why is -- why there a
13 difference between what he said and what Yensan said?

14 **MR. COOPER:** If we're going to argue it, I'd ask that
15 we come up to the bench.

16 **THE COURT:** Okay. Yeah, come on up.

17 (Sidebar discussion held on the record.)

18 **MR. SINGER:** So if you remember back at the last
19 trial, Mr. Casullo sometimes goes on for a little while.

20 **THE COURT:** I know. Yeah, he's doing that now.

21 **MR. SINGER:** So if he's testifying about -- about I
22 told Greg Yensan X, Y, Z --

23 **THE COURT:** Yes.

24 **MR. SINGER:** -- I don't have an objection to that.
25 He's here, I can cross-examine him.

1 But if he's talking about what Yensan said in he
2 response, that's the problem, Judge, that's hearsay.

3 **THE COURT:** They're both hearsay. They're both
4 hearsay.

5 **MR. COOPER:** So here's the reason.

6 **THE COURT:** Go ahead.

7 **MR. COOPER:** It impacts -- the discussions that he
8 has with his supervisor are contexts surrounding the decision
9 to order the phone records, and things that come up
10 afterwards. There's no question that it's gonna come up that
11 the defendant's phone shows up in Peter Gerace's tolls.
12 There's gonna be -- there's gonna be extensive direct and
13 extensive cross on the consternation that that caused by the
14 defendant.

15 The fact that Mr. Casullo discussed that with his
16 supervisor in advance is probative.

17 What Tony says to his supervisor is, hey, I think,
18 you know, I expect, in sum and substance, hey, Bongiovanni's
19 phone number might show up if I order these records. Is it
20 okay if I do that?

21 **THE COURT:** Hang on.

22 **MR. SINGER:** So, yeah, I don't have an issue, and I
23 didn't object last time to him sharing the fact that his boss
24 that I have a concern that Joe might show up in these records
25 and, you know, he ran with it, and he reported it back to his

02:15PM 1 boss Joe did show up in the records. Like, that's part of the
02:15PM 2 narrative. I get that, Judge, and I didn't object to that.

02:16PM 3 **THE COURT:** What's Yensan gonna say?

02:16PM 4 **MR. COOPER:** So, I don't -- word for word, I don't
02:16PM 5 recall, so I'm not positive. But I expect that what the
02:16PM 6 testimony will be is that Yensan says we'll deal with it, go
02:16PM 7 ahead and do it, which is a directive, it's not hearsay.

02:16PM 8 **THE COURT:** Right, that's not hearsay.

02:16PM 9 **MR. SINGER:** So I didn't object to that.

02:16PM 10 **THE COURT:** (Indecipherable.)

02:16PM 11 **MR. COOPER:** It didn't come in yet, I expect so.

02:16PM 12 **MR. SINGER:** If that's the extent of it, then --

02:16PM 13 **THE COURT:** Why don't you lead a little bit, because
02:16PM 14 he does go on and on.

02:16PM 15 **MR. COOPER:** Sure.

02:16PM 16 **THE COURT:** So why don't you lead -- you're going
02:16PM 17 gonna object to that?

02:16PM 18 **MR. SINGER:** No, I won't object to leading.

02:16PM 19 **THE COURT:** Let him lead to get this stuff in.

02:16PM 20 **MR. COOPER:** Sure.

02:16PM 21 **MR. SINGER:** Thank you.

02:16PM 22 (End of sidebar discussion.)

02:16PM 23 **THE COURT:** Okay. So the objection is withdrawn.
02:16PM 24 The question is withdrawn. So let's ask another question.
25

02:16PM

1

BY MR. COOPER:

02:16PM

2

Q. Sure. So Mr. Casullo, I'm going to ask you some leading

02:16PM

3

or more specific questions now, and just answer specifically

02:16PM

4

what I'm asking; is that fair?

02:16PM

5

A. Yes.

02:16PM

6

Q. Okay. There came a time when you went to have a

02:16PM

7

discussion with Greg Yensan about the fact that you were

02:16PM

8

gonna be doing a subpoena for Peter Gerace's phone records,

02:16PM

9

right?

02:16PM

10

A. Yes.

02:16PM

11

Q. Okay. And Greg Yensan at that time was your supervisor,

02:16PM

12

right?

02:16PM

13

A. Correct.

02:16PM

14

Q. And you told him, hey, I plan to run Peter Gerace's phone

02:17PM

15

records, right?

02:17PM

16

A. Yes.

02:17PM

17

Q. Did you tell Greg Yensan during that conversation that

02:17PM

18

you thought that this defendant's phone number might show up

02:17PM

19

in Peter Gerace's phone records?

02:17PM

20

A. Yes.

02:17PM

21

Q. Okay. Did Greg Yensan respond to that?

02:17PM

22

A. Yeah, he did.

02:17PM

23

Q. Yes, he did?

02:17PM

24

A. Yes, he did.

02:17PM

25

Q. Did he give you a directive essentially that said go

02:17PM 1 ahead and do it, and we'll handle it?

02:17PM 2 A. Yes. He said run the -- order the tolls, and if his
02:17PM 3 phone number comes up, let me know.

02:17PM 4 Q. At the time that you went to your supervisor, Greg
02:17PM 5 Yensan, and informed him that you were planning to do this
02:17PM 6 subpoena and that you thought the defendant's phone number
02:17PM 7 might show up in Peter Gerace's records, were you doing that
02:17PM 8 because you wanted to get the defendant in trouble?

02:17PM 9 A. No.

02:17PM 10 Q. Did you have any issue with the defendant at the time?

02:17PM 11 A. No.

02:17PM 12 Q. Did you ultimately issue a subpoena and get Peter
02:17PM 13 Gerace's phone records?

02:17PM 14 A. I did.

02:17PM 15 Q. Did Peter Gerace's phone records -- and, again, now we're
02:18PM 16 talking -- give me a timeframe here, this is when your
02:18PM 17 investigation is beginning?

02:18PM 18 A. I think it was June of 2016, beginning of June.

02:18PM 19 Q. Okay. So in June of 2016 when you order Peter Gerace's
02:18PM 20 phone records by subpoena, did you see who he was in contact
02:18PM 21 with?

02:18PM 22 A. I eventually did, yes.

02:18PM 23 Q. Okay. Did you get responses back from the subpoena?

02:18PM 24 A. Got the response back from the subpoena, and then we
02:18PM 25 generated a list of the numbers that the Gerace number was in

02:18PM 1 contact with.

02:18PM 2 Q. Okay. Was the defendant's phone number one of the phone
02:18PM 3 numbers that Peter Gerace's phone was in contact with?

02:18PM 4 A. Yes.

02:18PM 5 Q. When you saw that the defendant and Mr. Gerace had been
02:18PM 6 in contact with one another, describe for the jury what you
02:18PM 7 did at that point.

02:18PM 8 A. I brought it to Greg's attention. I brought him the toll
02:18PM 9 records over, and said here. Essentially.

02:18PM 10 Q. Was that consistent with what he had asked you to do
02:18PM 11 during your prior conversation?

02:18PM 12 A. Yes.

02:18PM 13 Q. Was getting those records a part of your investigation
02:19PM 14 into Peter Gerace for drug trafficking?

02:19PM 15 A. Yeah. That's a normal part of investigations. Getting
02:19PM 16 phone records to see who the person that you're looking at is
02:19PM 17 in contact with to get an idea of the drug-trafficking
02:19PM 18 organization, possible other criminals who
02:19PM 19 drug traffickers -- that your person that you're looking at
02:19PM 20 is in contact with. That's the way investigators and
02:19PM 21 analysts start building out their investigation.

02:19PM 22 Q. After you got that subpoena, saw the defendant's phone --
02:19PM 23 phone in contact with Peter Gerace's phone, and provided it
02:19PM 24 to your supervisor, Greg Yensan, did you notice a difference
02:19PM 25 in how the defendant started acting towards you?

02:19PM

1 A. Oh, yes.

02:19PM

2 Q. Can you describe that for the jury?

02:19PM

3 A. Yeah. Shortly thereafter, he essentially stopped talking

02:19PM

4 to me. I could tell he was upset and he wasn't talking to

02:19PM

5 me. And the prior to that, it wasn't like that.

02:19PM

6 Q. Okay. So, are you working in group D-57 at this time?

02:19PM

7 A. Yes.

02:19PM

8 Q. Is Joe Bongiovanni in group D-57?

02:19PM

9 A. Yes.

02:19PM

10 Q. Okay. Is that about, give or take, about a dozen agents

02:19PM

11 and TFOs that work in the group?

02:20PM

12 A. Yeah, maybe.

02:20PM

13 Q. Okay. So is that kind of a small number of people that

02:20PM

14 are working together?

02:20PM

15 A. Yeah, I mean, that's a typical size of a group. And we

02:20PM

16 were in a small space.

02:20PM

17 Q. Do you see each other all the time at work?

02:20PM

18 A. Daily.

02:20PM

19 Q. You interact with each other frequently in a group like

02:20PM

20 that?

02:20PM

21 A. Yeah.

02:20PM

22 Q. Was it obvious to you that something was different

02:20PM

23 between you and the defendant after you ran that subpoena?

02:20PM

24 A. Yeah, it was obvious to me.

02:20PM

25 Q. Was it comfortable for you?

02:20PM 1 A. No, it was uncomfortable. I hadn't even been back to the
02:20PM 2 office for a year. I had worked a prior case with him that
02:20PM 3 was extremely successful, so yeah, it was uncomfortable.

02:20PM 4 Q. Did you want to try to clear the air, so to speak?

02:20PM 5 A. Yeah. Yeah. I wasn't looking to get him into trouble.
02:20PM 6 I was targeting an individual, or beginning to. And I wasn't
02:20PM 7 trying to get anybody in trouble.

02:20PM 8 Q. Describe for the jury what you did to try to clear the
02:20PM 9 air.

02:20PM 10 A. I asked him if he'd be willing to speak with me in the
02:20PM 11 conference room. In our group -- in our group, which is
02:20PM 12 maybe 12 desks, and then a supervisor's office, there's also
02:21PM 13 a conference room off to the side that had a closed door.

02:21PM 14 Q. So you've described for the jury here that after you run
02:21PM 15 this subpoena, there's a noticeable difference in how the
02:21PM 16 defendant interacts with you; is that correct?

02:21PM 17 A. Yes.

02:21PM 18 Q. After that noticeable difference starts, do you ask the
02:21PM 19 defendant if he'll come and speak with you about it?

02:21PM 20 A. I did. I asked -- I asked him if he'd be willing to talk
02:21PM 21 to me in the conference room, and he agreed.

02:21PM 22 Q. And we're going to go into some detail about that
02:21PM 23 conversation. But before we get there, does that day and
02:21PM 24 that conversation, does that stick out in your mind?

02:21PM 25 A. Yes.

02:21PM 1 Q. We're talking about the summer of 2016, right?

02:21PM 2 A. Yes.

02:21PM 3 Q. It's 2024, it's eight years later. Is it still fresh in

02:21PM 4 your mind?

02:21PM 5 A. I still remember it well.

02:21PM 6 Q. When you went over and asked the defendant if he'd be

02:21PM 7 willing to speak with you, did he agree?

02:21PM 8 A. He agreed.

02:21PM 9 Q. Where did the conversation occur?

02:21PM 10 A. In the conference room. We walked into the conference

02:21PM 11 room.

02:21PM 12 Q. Was there anybody else in there at the time?

02:21PM 13 A. No, it was just Joe and I. And I shut the door, so the

02:22PM 14 door was closed.

02:22PM 15 Q. Did you invite anyone else in?

02:22PM 16 A. No.

02:22PM 17 Q. Did you want it to be a private conversation?

02:22PM 18 A. Yes.

02:22PM 19 Q. You mentioned that you shut the door; is that correct?

02:22PM 20 A. That's correct.

02:22PM 21 Q. Once you shut the door, who spoke first?

02:22PM 22 A. It was me. I told him that I didn't want him -- I

02:22PM 23 noticed that he was upset, and that I wasn't trying to get

02:22PM 24 him in trouble essentially. I ordered the records, but I'm

02:22PM 25 not trying to get you in any type of trouble.

02:22PM 1 Q. When you said those words to the defendant, did the
02:22PM 2 defendant respond?

02:22PM 3 A. He did.

02:22PM 4 Q. I want to take this step by step, so just one thing at a
02:22PM 5 time. Tell the jury, what was the first thing the defendant
02:22PM 6 said to you when you mentioned to him you weren't trying to
02:22PM 7 get him in trouble?

02:22PM 8 A. He said this is bullshit.

02:22PM 9 Q. Was he calm when he said that?

02:22PM 10 A. No, he was upset. He was visibly upset.

02:22PM 11 Q. Upset, like he was crying? Or upset, like he was angry?

02:22PM 12 A. No, he wasn't crying. He was like, angry upset.

02:23PM 13 Q. When he said this is bullshit, was his voice -- tone of
02:23PM 14 voice, like volume, conversational or elevated?

02:23PM 15 A. No, it was elevated. He wasn't screaming, but it was
02:23PM 16 elevated.

02:23PM 17 Q. After the defendant says to you this is bullshit, in an
02:23PM 18 elevated voice, who's the next person to speak after that?
02:23PM 19 You or him?

02:23PM 20 A. It was him.

02:23PM 21 Q. What did he say after that?

02:23PM 22 A. He said, that kid called me when a stripper overdosed in
02:23PM 23 his club. And I told him to get her out of there.

02:23PM 24 Q. Was the defendant worked up when he said that to you?

02:23PM 25 A. Yes.

02:23PM 1 Q. Was he elevated?

02:23PM 2 A. Yes.

02:23PM 3 Q. Was he angry?

02:23PM 4 A. Yeah, he was definitely excited.

02:23PM 5 Q. You mentioned that the defendant said to you, that kid
02:23PM 6 called me.

02:23PM 7 In the context of your conversation, who was "that kid"
02:23PM 8 referring to?

02:23PM 9 A. Peter Gerace.

02:23PM 10 Q. Do those -- were those his exact words to the best of
02:23PM 11 your ability?

02:23PM 12 A. Yes.

02:23PM 13 Q. Does that stand out in your memory eight years later?

02:23PM 14 A. Oh, it does. I mean, even the word "kid." Calling
02:23PM 15 someone a kid, but yes.

02:24PM 16 Q. After the defendant told you, that kid called me when a
02:24PM 17 stripper overdosed, and I told him to get her out of there,
02:24PM 18 what -- what was your immediate reaction to hearing that?

02:24PM 19 A. Just shock. Trying to process what he had just said.

02:24PM 20 Why he had just said that. It came completely unsolicited.
02:24PM 21 And I was blindsided.

02:24PM 22 Q. When you walked into the conference room to try to clear
02:24PM 23 the air, were you expecting that -- that type of topic to
02:24PM 24 come up?

02:24PM 25 A. No, not at all.

02:24PM 1 Q. Were you taken aback by that?

02:24PM 2 A. Yes. I was reeling, is a good way to describe it.

02:24PM 3 Q. After the defendant said that Peter Gerace, or that kid,

02:24PM 4 had called him when a stripper overdosed, and he told him to

02:24PM 5 get her out of there, who spoke next? You or the defendant?

02:24PM 6 A. He did.

02:24PM 7 Q. What did he say after that?

02:24PM 8 A. He said, isn't he friends with your brother-in-law?

02:24PM 9 Referring to my wife's brother, Phil Domiano.

02:24PM 10 Q. That's break that down.

02:24PM 11 Isn't he friends with your brother-in-law; who's the "he"

02:24PM 12 in that sentence?

02:24PM 13 A. Gerace.

02:24PM 14 Q. Okay. And when the defendant said, isn't he friends with

02:25PM 15 your brother-in-law, what was the defendant's tone of voice

02:25PM 16 when he said that to you?

02:25PM 17 A. Very direct. I mean, almost accusatory. I -- I -- I

02:25PM 18 took it as what does that have to do with anything.

02:25PM 19 Q. Was it phrased as a question? Was it inquisitorial?

02:25PM 20 A. More rhetorical. Almost like accusatory.

02:25PM 21 Almost like, hey, if you want to start looking up phone

02:25PM 22 numbers and my name's brought up, then here you go. He's

02:25PM 23 friends with your brother-in-law.

02:25PM 24 That's how I took it.

02:25PM 25 Q. Who spoke next after the defendant said, isn't he friends

02:25PM 1 with your brother-in-law?

02:25PM 2 A. I did.

02:25PM 3 Q. What did you say?

02:25PM 4 A. I said, yeah. Yeah, he is. And my brother-in-law's

02:25PM 5 caused me and my family a lot of problems in the past.

02:25PM 6 Q. After you said that, who spoke next?

02:25PM 7 A. Bongiovanni.

02:25PM 8 Q. What did he say?

02:25PM 9 A. He said, do you hate Italians?

02:25PM 10 Q. Now you described what his demeanor was like when the

02:25PM 11 conversation started. What was the defendant's demeanor like

02:26PM 12 when he said to you, do you hate Italians?

02:26PM 13 A. He was still very direct, upset.

02:26PM 14 Q. In the context of the conversation that you were having

02:26PM 15 with the defendant, what did you interpret his meaning by, do

02:26PM 16 you hate Italians?

02:26PM 17 A. His meaning was to me, Peter Gerace is Italian, and he

02:26PM 18 didn't want me to investigate Italians. He didn't want me to

02:26PM 19 investigate Gerace, essentially.

02:26PM 20 He could say Italians, but it was Gerace, that's how I

02:26PM 21 took it.

02:26PM 22 Q. Who spoke next, you or the defendant?

02:26PM 23 A. I did.

02:26PM 24 Q. And what did you say?

02:26PM 25 A. And I said, no, no, I don't hate Italians. I'm of

02:26PM 1 Italian descent, my wife is of Italian descent, my kids are,
02:26PM 2 my grandparents are. I mean, that's ridiculous. It's silly.

02:26PM 3 But it wasn't silly, because he had a point.

02:26PM 4 Q. After you said no, I don't hate Italians. My wife's
02:27PM 5 Italian, I'm Italian, who spoke next after that?

02:27PM 6 A. He did.

02:27PM 7 Q. What did the defendant say?

02:27PM 8 A. He said a horrible racial slur and statement.

02:27PM 9 Q. All right. Special Agent Casullo, I'm going to ask you,
02:27PM 10 use the words that the defendant said -- withdrawn.

02:27PM 11 I'm going to ask you to recount what the defendant said
02:27PM 12 to you, but do not say the racial slur words in this
02:27PM 13 courtroom. But recount for the jury what the defendant said
02:27PM 14 to you at that part in the conversation.

02:27PM 15 A. He said that we should be investigating -- and he used
02:27PM 16 the "N word" to refer to black people, and he used the "S
02:27PM 17 word" to refer to Hispanic people.

02:27PM 18 Q. When the defendant told you that you should be
02:27PM 19 investigating "N words" and "S words," what was his tone of
02:27PM 20 voice like?

02:27PM 21 A. A little more quiet. He wasn't screaming. He almost
02:27PM 22 said it -- he said it quietly.

02:27PM 23 Q. Compared with earlier in the conversation, did he lower
02:27PM 24 his voice when he said that?

02:28PM 25 A. Yes, he did.

02:28PM 1 Q. Were you inside of a federal law enforcement workplace at
02:28PM 2 that point?

02:28PM 3 A. Yes.

02:28PM 4 Q. When the defendant told you that you should be
02:28PM 5 investigating "N words" and "S words," what was your
02:28PM 6 immediate reaction?

02:28PM 7 A. Again, reeling again. At this point, I'm trying to
02:28PM 8 process basically everything that's happening. And saying
02:28PM 9 this is a different person who I just worked an eight month,
02:28PM 10 extremely successful investigation from.

02:28PM 11 This is a different person that I met in the summer, who
02:28PM 12 was typically respectful and polite.

02:28PM 13 This was someone that was different from someone that I
02:28PM 14 considered to an extent a friend, a coworker, and someone
02:28PM 15 that I trusted. It was someone I didn't know.

02:28PM 16 Q. Were you shocked when you heard that?

02:28PM 17 A. I was shocked. Shocking.

02:28PM 18 Q. Who's the next person that spoke after the defendant told
02:28PM 19 you you should be investigate "N words" and "S words?"

02:28PM 20 A. I did. At this point, I'm in the mode of trying to stay
02:28PM 21 calm, not trying to overreact. Not trying to make it like
02:29PM 22 I'm overly concerned, although -- although I am.

02:29PM 23 And I said, I think we should be investigating all
02:29PM 24 criminals.

02:29PM 25 Q. What -- at that moment in the conversation when you

1 respond to the remark the defendant say to you, you say we
2 should be investigating all criminals, what's your goal at
3 that point in the conversation?

4 A. I'm at the point where I am, like, I want to get out of
5 the conference room at this point.

6 I want to get out at the point we're not -- where he is
7 not overly alarmed about how I'm feeling about all of this.

8 I'm trying to process it. I'm trying to figure this out.
9 I'm trying to do this in my head of how can I get out of this
10 situation essentially.

11 Q. After you told the defendant that you should be
12 investigating criminals, all criminals, who spoke next, you
13 or the defendant?

14 A. He did.

15 Q. What did he say?

16 A. It kind of started to walk back at that point, which was
17 good. It's what I was hoping for at some point.

18 And he had said that Gerace wasn't a trafficker, he was
19 more of a white-collar type, fraud-type criminal. He was
20 more of a drug user. And that if he was dirty, he'd nail him
21 to the wall.

22 Q. When the defendant told you that if Gerace was dirty,
23 he'd nail him to the wall, did you believe that?

24 A. No.

25 Q. Was it consistent with the context of your conversation

02:30PM 1 leading up to that point?

02:30PM 2 A. No, based on everything that was said before that, it was
02:30PM 3 completely inconsistent with everything prior.

02:30PM 4 Q. Did you argue with him about that --

02:30PM 5 A. No --

02:30PM 6 Q. -- and continue the conversation?

02:30PM 7 A. -- I was happy to hear that. It was a way out, and a way
02:30PM 8 to walk back the conversation, so that I could hopefully walk
02:30PM 9 out at some point.

02:30PM 10 Q. What did you do next? Who spoke next? Let me ask you
02:30PM 11 that.

02:30PM 12 A. At that point, it's towards the end, and he also
02:30PM 13 mentioned -- I can't remember exactly what was said after
02:30PM 14 that, other than he mentioned at some point shortly after
02:30PM 15 that and towards the end of the conversation that his
02:30PM 16 parents -- his mother and father were going to be going to a
02:31PM 17 50-year reunion for Gerace's parents, like either that night
02:31PM 18 or the next day.

02:31PM 19 Which in my head I'm, like, completely unaware that he
02:31PM 20 was that close with his family, that his parents were that
02:31PM 21 close with his family.

02:31PM 22 I mean, and that's how it was from the beginning. I had
02:31PM 23 no idea that he was that close with this person. But I found
02:31PM 24 out certain things through that conversation, that's for
02:31PM 25 sure.

02:31PM 1 Q. Special Agent Casullo, you mentioned that when the
02:31PM 2 defendant said to you, do you hate Italians? You interpreted
02:31PM 3 him to be talking about Gerace; is that correct?

02:31PM 4 A. Yes.

02:31PM 5 Q. This conversation that you have with the defendant in the
02:31PM 6 conference room, was Gerace the only topic that came up?

02:31PM 7 A. No.

02:31PM 8 Q. I mean, this was a conversation that -- let me rephrase
02:31PM 9 that question.

02:31PM 10 When you started the conversation, it was about clearing
02:31PM 11 the air because of the Gerace subpoena, right?

02:31PM 12 A. Correct.

02:31PM 13 Q. And when the defendant said that kid called me, was that
02:31PM 14 a comment about Gerace?

02:31PM 15 A. Yes.

02:31PM 16 Q. And when he said isn't he friends with your
02:31PM 17 brother-in-law, was that a comment about Gerace?

02:31PM 18 **MR. SINGER:** Objection, asked and answered.

02:32PM 19 **MR. COOPER:** It's a different question.

02:32PM 20 **THE COURT:** Overruled.

02:32PM 21 **BY MR. COOPER:**

02:32PM 22 Q. Was that a comment about Gerace?

02:32PM 23 A. Yes.

02:32PM 24 Q. And did the fact that the whole conversation up to that
02:32PM 25 point had been about Gerace cause you to believe that the

02:32PM 1 comment, what, do you hate Italians, was also about Gerace?

02:32PM 2 A. Yes, of course.

02:32PM 3 Q. Did you walk out of that room with the impression that
02:32PM 4 the defendant wanted you to stop investigating Gerace?

02:32PM 5 A. Oh, he did not want me to investigate Peter Gerace. That
02:32PM 6 was one thing that was clear when that conversation ended.

02:32PM 7 Q. In June of 2016, at the time of this conversation in the
02:32PM 8 conference room, how long had you been a special agent in the
02:32PM 9 Buffalo resident office?

02:32PM 10 A. So June of 2016, I got there September of '15. So you're
02:32PM 11 talking about nine months maybe.

02:32PM 12 Q. Had the defendant been in the Buffalo office much longer
02:32PM 13 than you?

02:32PM 14 A. Oh, yeah. I think almost his whole career except for a
02:32PM 15 year he spent in Florida, I believe, Orlando, I think.

02:33PM 16 Q. Special Agent Casullo, when you walked out of that
02:33PM 17 conference room after the defendant made those remarks to
02:33PM 18 you, did you walk down the hallway to a supervisor's office
02:33PM 19 and report it?

02:33PM 20 A. No. I did not.

02:33PM 21 Q. Did you wait a long time before you ever told anybody
02:33PM 22 about what the defendant said to you in that conference room?

02:33PM 23 A. I waited a long time to tell anybody in a managerial
02:33PM 24 position. I did tell other agents that I was close friends
02:33PM 25 with that I had worked with, one that was working in Miami

02:33PM 1 who was my field training agent.

02:33PM 2 **MR. SINGER:** Objection, hearsay.

02:33PM 3 **MR. COOPER:** I don't believe hearsay is telling who
02:33PM 4 you spoke to about something.

02:33PM 5 **THE COURT:** Hang on.

02:33PM 6 Yeah, overruled.

02:33PM 7 **BY MR. COOPER:**

02:33PM 8 Q. You mentioned that you told a couple of associates at the
02:33PM 9 DEA over time; is that correct?

02:33PM 10 A. Yeah, several close -- close friends and fellow agents.

02:34PM 11 Q. Did there come a time ultimately when you reported it to
02:34PM 12 your management?

02:34PM 13 A. Yes.

02:34PM 14 Q. About how much time passed from the time the defendant
02:34PM 15 said those things to you in the conference room until you
02:34PM 16 reported it to management?

02:34PM 17 A. I think it was about two years, it was kind of long.

02:34PM 18 Q. I want you to explain to the jury why you didn't walk
02:34PM 19 down the hall when you heard that and report it to your
02:34PM 20 supervisor. Tell them.

02:34PM 21 A. Well, several reasons. Trying to process everything at
02:34PM 22 the same time, or all at once.

02:34PM 23 Concerned, now knowing he's a lot closer with Gerace than
02:34PM 24 I knew he was. That he was possibly going to tell Gerace
02:34PM 25 that I was investigating him. That definitely crossed my

02:34PM 1 mind.

02:34PM 2 It crossed my mind of -- I'm still trying to figure out
02:34PM 3 what he means about a stripper overdosing at the club and he
02:34PM 4 called him. Why a criminal is calling a DEA agent about a
02:34PM 5 stripper overdosing? I don't know. Like, to me, that's not
02:34PM 6 something that's normal.

02:34PM 7 Is there something more to that? Is there possibly a
02:35PM 8 crime involved? Is there some type of cover up? I don't
02:35PM 9 know. I'm trying to process all this.

02:35PM 10 And at the same time, in a very selfish way, I knew from
02:35PM 11 past experience if you're an agent and you're telling
02:35PM 12 supervisors about someone that's using racial slurs, and as
02:35PM 13 horrible as this is, that there's -- there's backlash to
02:35PM 14 that.

02:35PM 15 There's backlash from your management, because they think
02:35PM 16 that you're a troublemaker, that the office is gonna come
02:35PM 17 under spotlight, and that they're gonna be possibly
02:35PM 18 investigated.

02:35PM 19 You are questioned by other agents, that they think
02:35PM 20 you're a snitch, snitching on another agent.

02:35PM 21 That thin blue line thing, it -- it certainly factors in.
02:35PM 22 And I knew that.

02:35PM 23 I had known other agents, very good agents, that came
02:35PM 24 forth and said things to people in particular that were
02:35PM 25 fantastic agents, and I saw what they went through. I saw

02:35PM 1 what happened to their reputation. I saw what happened to
02:35PM 2 their career. Both had to leave offices and go and work in
02:35PM 3 other places because it was so horrible.

02:35PM 4 So I was very aware of that. So in a selfish way,
02:36PM 5 instead of doing the right thing, and maybe focusing on an
02:36PM 6 investigation as opposed to the right thing of going forth
02:36PM 7 and saying what he said to me, which was absolutely racist
02:36PM 8 and that he is a racist, I didn't do that. I didn't do that.

02:36PM 9 Q. Were you worried about being ostracized in the office
02:36PM 10 that you had just joined?

02:36PM 11 A. 100 percent.

02:36PM 12 Q. Were you worried about being isolated in a place that you
02:36PM 13 had finally gotten back to?

02:36PM 14 A. Yes. I was there less than a year. Even though I had
02:36PM 15 been an agent for all these years, I was new to Buffalo. And
02:36PM 16 a lot of the agents had been there a long time.

02:36PM 17 Q. Looking back, do you think you should have walked down
02:36PM 18 the hall and reported it to a supervisor immediately?

02:36PM 19 A. Yes. I should have reported that to someone in
02:36PM 20 management immediately, and I didn't.

02:36PM 21 Q. After that meeting, can you describe for the -- for the
02:36PM 22 jury the context of -- actually, withdrawn.

02:36PM 23 Before we get there, after that conference room
02:36PM 24 conversation with the defendant where he says these things to
02:37PM 25 you, did you personally hear from Peter Gerace?

02:37PM 1 A. So, about two or three weeks after that, I got a phone
02:37PM 2 call from a 716 number on my personal cell phone. Didn't
02:37PM 3 recognize the number. And I answered the phone. And someone
02:37PM 4 said, hey, what's up agent? Or something to that effect.

02:37PM 5 And I said, who is this? And he said, it's Peter Gerace.
02:37PM 6 So, yeah, I got a phone call about three weeks later from
02:37PM 7 Peter Gerace.

02:37PM 8 Q. Were you expecting that?

02:37PM 9 A. No. No, I wasn't. Peter Gerace had never called me in
02:37PM 10 any entire life. And he called me about two or three weeks
02:37PM 11 after that to tell me in a social conversation, how are you
02:37PM 12 doing? Oh, I'm in Ellicottville, and I saw a friend of
02:37PM 13 yours, that I didn't even know he knew was a friend of mine.
02:37PM 14 And that he just wanted to call and tell me.

02:37PM 15 And I said, okay, that's great. And, yeah, ended the
02:37PM 16 conversation shortly after that.

02:37PM 17 And 100 percent took note of that. And I did report that
02:38PM 18 to a supervisor.

02:38PM 19 Q. Did you believe that was a coincidence that Peter Gerace
02:38PM 20 called you two or three weeks after this defendant made those
02:38PM 21 comments to you in the conference room?

02:38PM 22 A. No.

02:38PM 23 **MR. SINGER:** Objection, speculation.

02:38PM 24 **THE COURT:** Sustained.
25

02:38PM

1

BY MR. COOPER:

02:38PM

2

Q. In your whole life, before that, had Peter Gerace ever

02:38PM

3

called you?

02:38PM

4

A. Never.

02:38PM

5

MR. SINGER: Objection, asked and answered.

02:38PM

6

THE COURT: Overruled.

02:38PM

7

BY MR. COOPER:

02:38PM

8

Q. After the defendant said those things to you in the

02:38PM

9

conference room, did he call you within a month after that?

02:38PM

10

A. No, it was a couple weeks.

02:38PM

11

Q. Okay. Do you know how Peter Gerace got your phone

02:38PM

12

number?

02:38PM

13

A. Yes. Yes.

02:38PM

14

Q. Can you describe that to the jury?

02:38PM

15

A. So I gave Peter Gerace my phone number.

02:38PM

16

Years prior, when I was in New York City, I was home on a

02:38PM

17

weekend from Buffalo. Typically, I would drive in on a

02:38PM

18

Friday, come home late, and there's no dinner at home. So I

02:38PM

19

stopped at Brennan's Tavern, which is on Transit, that no

02:38PM

20

longer -- I think it's closed now, to get some wings.

02:39PM

21

And then I called my wife and to say I'm gonna stop at

02:39PM

22

Brennan's to get wings before I come home.

02:39PM

23

And she had told me that her brother, who living in

02:39PM

24

Buffalo at that time, he moved from Las Vegas back to Buffalo

02:39PM

25

while I was in New York City, was up there with another

02:39PM 1 friend. I said okay.

02:39PM 2 So I went to Brennan's. And sure enough, when I walked
02:39PM 3 in, I saw her brother. He was at the bar. It wasn't as bad
02:39PM 4 at that point that it is now, and afterwards. So this is
02:39PM 5 somewhere maybe around -- I'm in New York between maybe 2013,
02:39PM 6 2014 timeframe. So I said hi to him when I walked in.

02:39PM 7 I ordered my wings. He was there with his other friend,
02:39PM 8 who I also knew, too, from growing up prior before I even met
02:39PM 9 my wife's family.

02:39PM 10 And about 15 minutes later, and he never told me this,
02:39PM 11 Peter Gerace came walking in to the bar and walked up to us.

02:39PM 12 Q. When you say he never told me, who is the "he" in that
02:39PM 13 sentence?

02:39PM 14 A. My brother-in-law never mentioned while I was sitting
02:40PM 15 there having wings that Peter Gerace was gonna be showing up.
02:40PM 16 That Peter was meeting him there. He showed up.

02:40PM 17 Q. What happened when Peter showed up?

02:40PM 18 A. He showed up, caught me off guard obviously. A little
02:40PM 19 annoyed, feeling that why didn't you mention this to me?
02:40PM 20 Because Peter Gerace isn't someone I want to hang out with.
02:40PM 21 And, yeah.

02:40PM 22 Peter just joined the conversation. And it was towards
02:40PM 23 the end of my time having wings there. And while I was
02:40PM 24 there, my wife called me wondering where I was at.

02:40PM 25 And I answered the phone, and told her I was just having

02:40PM 1 wings, I was finishing them, that her brother was there, and
02:40PM 2 that I was going to be coming home shortly.

02:40PM 3 Q. How did Peter Gerace ultimately get your phone number as
02:40PM 4 a result of that?

02:40PM 5 A. So at the end of the conversation, caught pretty much off
02:40PM 6 guard, Peter Gerace asked me for my cell phone number. And I
02:40PM 7 couldn't think quick enough for a reason why not to give it
02:40PM 8 to him, so I gave him my personal cell phone number.

02:40PM 9 Q. From the time in, like, 2012 or 2013, whenever you said
02:40PM 10 that meeting was at the wing restaurant, until the summer of
02:41PM 11 2016, did Peter Gerace ever call you.

02:41PM 12 A. Never.

02:41PM 13 Q. Did he ever text you?

02:41PM 14 A. He did text me once after -- when I gave him that number
02:41PM 15 at the bar that night he texted me, I can't remember. Maybe
02:41PM 16 it was six months afterwards. I remember it was during a
02:41PM 17 snowstorm, because I was shovelling snow, and I got a text
02:41PM 18 message again from a 716 number, probably the same number, I
02:41PM 19 don't know, because it wasn't saved in my phone. And it said
02:41PM 20 the same thing, hey, what's up how's things in New York?

02:41PM 21 And I texted back, who is this? And he said it was Peter
02:41PM 22 Gerace.

02:41PM 23 So the only other time he ever reached out to me or
02:41PM 24 communicated with me was that time which was before I moved
02:41PM 25 back from New York to Buffalo. And it was text message.

02:41PM 1 Q. In that text message, did you carry on months-long
02:41PM 2 conversations with him?

02:41PM 3 A. No, it was very short. Very short. Things are fine in
02:41PM 4 New York. I'm home for the weekend type thing, and that was
02:41PM 5 it.

02:41PM 6 Q. Did you ever meet him out and hang out with him?

02:41PM 7 A. No.

02:41PM 8 Q. Did you ever invite him to your birthday party?

02:42PM 9 A. No.

02:42PM 10 Q. Can you describe for the jury the context of how you
02:42PM 11 ultimately report to a DEA supervisor the comments that the
02:42PM 12 defendant made to you in the conference room in June of 2016?

02:42PM 13 A. We were at the U.S. Attorney's Office for a meeting
02:42PM 14 regarding the investigation of Peter Gerace and Anthony
02:42PM 15 Gerace. And this was after -- this was after I pulled the
02:42PM 16 phone records, this was after a proffer I conducted with an
02:42PM 17 individual who mentioned Joe was passing informant's names.
02:42PM 18 This was after I found a report where Joe was calling Peter
02:42PM 19 Gerace his informant in a report that I gave to the U.S.
02:42PM 20 Attorney's Office and said this is a fake report.

02:42PM 21 It was at that point that I told them that we had had
02:42PM 22 this conversation, and Joe used those racial slurs that I
02:42PM 23 described, and said what he said about the stripper
02:43PM 24 overdosing and Gerace calling him about it.

02:43PM 25 Q. Was that conversation that you had with the defendant and

02:43PM 1 the things he said to you in the conference room something
02:43PM 2 that you had kind of buried inside you for a long time?

02:43PM 3 A. Yeah. I mean, the only people that I shared that with
02:43PM 4 were close fellow agents. And, yeah, it was difficult.

02:43PM 5 Q. Was it comfortable to bring it up to a supervisor at the
02:43PM 6 DEA?

02:43PM 7 A. No. No. Because I knew. I knew where it was gonna go.
02:43PM 8 That's exactly where it went afterwards.

02:43PM 9 Q. What do you mean by that?

02:43PM 10 A. I mean that I knew would go to internal affairs, which is
02:43PM 11 where it should go. And those things that I mentioned with
02:43PM 12 fellow agents, many of those things happened to me in my
02:43PM 13 office.

02:43PM 14 Q. Did you get ostracized?

02:43PM 15 A. I was -- there were numerous things that happened. I was
02:43PM 16 no longer the acting supervisor for my group, his backup.

02:44PM 17 I was supposed to be going to a leadership class that I
02:44PM 18 no longer was selected to go to. Which was bad enough, but
02:44PM 19 then from a personal perspective, people in the office
02:44PM 20 started to ignore me.

02:44PM 21 People that I had known for years stopped talking to me.

02:44PM 22 One task force officer in particular, who I had known
02:44PM 23 20 years, I went to the police academy with her, who I
02:44PM 24 considered a friend, when I was walking into the office
02:44PM 25 actually crossed the street go to the other side of the road.

02:44PM 1 Agents in my office making snide remarks about the U.S.
02:44PM 2 Attorney's Office knowing that I was working cases with
02:44PM 3 people at the U.S. Attorney's Office, one agent saying that
02:44PM 4 we should take a crane to the U.S. Attorney's Office.

02:44PM 5 Another agent saying in front of me about my partner,
02:44PM 6 Curtis Ryan, who had to leave the office because of the same
02:44PM 7 type of treatment, that he was a rat bastard and some day
02:45PM 8 he'd get his.

02:45PM 9 And this is after having -- I've been in law enforcement
02:45PM 10 at that point 20-something years, a DEA agent 20-something
02:45PM 11 years, and it was devastating. I mean, the leadership, not
02:45PM 12 being a supervisor? No big deal. Whatever.

02:45PM 13 But to have people think those things of me and to be
02:45PM 14 treated that way, and I saw it coming. And I knew it. And I
02:45PM 15 knew it. And my wife saw it --

02:45PM 16 Q. Sir, were those all things that you were worried about
02:45PM 17 before you reported it?

02:45PM 18 A. Those are all things that I knew. I had seen it before.

02:45PM 19 Q. Did all those things happen to you after you reported it?

02:45PM 20 A. Yes. Those things I mentioned were the things that
02:45PM 21 happened. I went to the point of, thankfully, my group at
02:45PM 22 the time in the task force was working a wiretap
02:45PM 23 investigation. It got to the point that it was so unbearable
02:45PM 24 that I volunteered for all the nightshifts so I wouldn't have
02:45PM 25 to go to into the office. I just went straight out on a

surveillance so I wouldn't have to deal with this.

Q. Has it been a pleasant experience for you since you reported those things?

A. It was horrible. It was horrible. Yeah. It was -- it was a low point in my career.

It still bothers me. And I've been retired from DEA for over two years, and it -- it still bothers me.

Q. At some point after the comments that the defendant makes to you in the June 2016 conference room meeting, does the investigation into Peter Gerace pick up steam again?

A. Yeah, after that, not like right after that. It was somewhere in like early 2017 maybe that I worked an investigation. And then we worked an investigation, Joe Bongiovanni was initially somewhat involved at that point. We were not totally not communicating at this point.

But then we started targeting an individual who he was familiar with, and he told me he didn't want to be part of it anymore, and he didn't trust the informant, who was already providing us good information. So he wasn't working with me anymore at that point.

Q. Did there come a time when you conducted a proffer interview of an individual named Kevin Myszka?

A. Yes.

Q. Did that kind of reignite the Peter Gerace investigation?

A. Yes, that was it. So that case, the person that he knew

02:47PM 1 was Kevin Myszka. We arrested Kevin Myszka, my group did.

02:47PM 2 And he wasn't case agent with me at this point, but he was

02:47PM 3 still in the group. And we arrested Kevin Myszka, and he

02:47PM 4 ended up cooperating.

02:47PM 5 And we conducted several interviews of Kevin Myszka. And

02:47PM 6 during those interviews, I didn't know if he knew Gerace or

02:47PM 7 not, but at that point I'm looking for anybody that can

02:47PM 8 provide intel, like an informant or a source.

02:47PM 9 And Kevin Myszka, from what I knew and from the

02:47PM 10 investigation, I knew that he grew up in Amherst, New York.

02:47PM 11 I knew the Geraces lived -- Peter and Anthony both, I think,

02:48PM 12 lived in Amherst, New York. Anthony was somewhere around the

02:48PM 13 same age as Kevin Myszka.

02:48PM 14 So long story short, I asked him. I asked him if he was

02:48PM 15 familiar with Pharaoh's and the Geraces, and he was. He was.

02:48PM 16 Q. Did Myszka, without getting into the details of what he

02:48PM 17 said, did Myszka provide some information about Gerace?

02:48PM 18 A. He did, yep.

02:48PM 19 Q. Okay. In the course of your investigation into Peter

02:48PM 20 Gerace, did you look in DEA databases for any other reports

02:48PM 21 that referenced Peter Gerace?

02:48PM 22 A. I did. After meeting with the U.S. Attorney's Office, we

02:48PM 23 had a coordinating meeting at some point. The prosecutor was

02:48PM 24 willing to look at historical information. So not just

02:48PM 25 current, like, current wiretap information if we were

02:48PM 1 listening to a phone, or an informant that was providing
02:48PM 2 realtime. The prosecutor was willing to take historical
02:48PM 3 information that occurred basically at any time to build an
02:48PM 4 investigation.

02:48PM 5 That was new to me. A lot of the prosecutors in Vegas
02:48PM 6 didn't work cases that way. They were more into the
02:48PM 7 realtime-type investigation, mostly wiretaps, because that's
02:48PM 8 predominantly what I worked so that's what I did.

02:48PM 9 I went back to the office, and I searched for historical
02:49PM 10 reporting on Peter and Anthony Gerace.

02:49PM 11 Q. Okay.

02:49PM 12 **MR. COOPER:** Can we pull up Government Exhibit 30A in
02:49PM 13 evidence.

02:49PM 14 **BY MR. COOPER:**

02:49PM 15 Q. I think earlier during a longer answer that you gave, you
02:49PM 16 mentioned a -- you called it a fake report that you found.
02:49PM 17 Is this what you were talking about?

02:49PM 18 A. Yes. Yes.

02:49PM 19 Q. Did you find this report when you went back to pull up
02:49PM 20 old reports mentioning the name Peter Gerace?

02:49PM 21 A. Yes, I did.

02:49PM 22 Q. When you found this report, did you produce it to the
02:49PM 23 U.S. Attorney's Office?

02:49PM 24 A. Yes, I did.

02:49PM 25 Q. Who drafted this report?

02:49PM 1 A. Joseph Bongiovanni.

02:49PM 2 Q. What's the subject of the report?

02:49PM 3 A. Information offer by Peter Gerace regarding narcotics
02:49PM 4 investigation.

02:49PM 5 Q. What's the date the report was prepared?

02:49PM 6 A. November 6th, 2009.

02:49PM 7 Q. Do you see a sentence starting here, the second sentence
02:49PM 8 of paragraph 2, that indicates that Gerace has acted as a
02:49PM 9 confidential source and has been able to provide information
02:50PM 10 regarding individuals in this case file and other narcotic
02:50PM 11 investigations in the past.

02:50PM 12 A. Yes. I see that.

02:50PM 13 Q. Who wrote those words?

02:50PM 14 A. Joseph Bongiovanni.

02:50PM 15 **MR. COOPER:** You can take that down, Ms. Champoux.

02:50PM 16 **BY MR. COOPER:**

02:50PM 17 Q. Why did you bring this report to the U.S. Attorney's
02:50PM 18 Office?

02:50PM 19 A. Well, first, I was tasked with pulling up historical
02:50PM 20 reporting. Peter Gerace was a target of the investigation.
02:50PM 21 But more importantly, at this point, based on how that report
02:50PM 22 was written, I -- I believed it to be a fake report.

02:50PM 23 You don't mention an individual by name if they were a
02:50PM 24 confidential source before, you refer to them as a
02:50PM 25 deactivated confidential source. Those names are highly

protected.

But even more, I knew it was his friend. You're not allowed to even sign someone up and run an informant that's a personal friend.

There were multiple things on the report. You refer to an informant by an informant number. An agent that's out of the academy, and I was a field training agent --

MR. SINGER: Your Honor, I'm going to object as to nonresponsive at this point.

THE COURT: So, Mr. Casullo, please listen to the questions and just answer the question that he's asking you.

THE WITNESS: Yes, Judge.

THE COURT: Ask another question.

MR. COOPER: Yes, Judge.

BY MR. COOPER:

Q. After -- you were describing some of the reasons why you submitted this report to the U.S. Attorney's Office. Was one of the reasons that they had asked you to look up historical reporting on Peter Gerace?

A. Yes.

Q. Was that part of the investigative plan in that case?

A. Yes, it was.

Q. Did you look up the report as part of the investigative plan?

A. Yes, I did.

02:51PM 1 Q. When you saw what was written in the report, did it
02:51PM 2 strike you as suspicious and odd?

02:51PM 3 A. Yes.

02:51PM 4 Q. Did you forward it along to the U.S. Attorney's Office?

02:52PM 5 A. Yes.

02:52PM 6 Q. Were you doing that because you wanted to target the
02:52PM 7 defendant in any way?

02:52PM 8 A. No.

02:52PM 9 Q. After you brought that report to the U.S. Attorney's
02:52PM 10 Office, did the defendant ever approach you about doing that?

02:52PM 11 A. Yes, he did.

02:52PM 12 Q. What did he say?

02:52PM 13 A. He came over and he said -- to my desk again, when I was
02:52PM 14 alone, caught me off guard, I didn't see him. I was in a
02:52PM 15 task force group at this time.

02:52PM 16 He came to my desk and he said, what is this, I hear you
02:52PM 17 sent some bullshit report that I wrote years ago over to the
02:52PM 18 U.S. Attorney's Office, over to Joe Tripi?

02:52PM 19 Q. What was his demeanor like?

02:52PM 20 A. He was angry, and said I don't trust that guy.

02:52PM 21 Q. Does the DEA work basically on all their cases with the
02:52PM 22 U.S. Attorney's Office?

02:52PM 23 A. The majority of them.

02:52PM 24 Q. Okay. Is it strange or unusual for a DEA agent to send a
02:52PM 25 DEA report about a suspected drug dealer to the U.S.

02:52PM 1 Attorney's Office?

02:52PM 2 A. No, we do it all the time.

02:52PM 3 Q. I want to just get a timeline down to clear up.

02:53PM 4 You mentioned that the conversation in the conference
02:53PM 5 room is June of 2016, right?

02:53PM 6 A. Yes.

02:53PM 7 Q. Okay. Earlier, we spoke before the break about an
02:53PM 8 interaction where you had run Anthony Gerace's tolls, and the
02:53PM 9 defendant came over and made some comments to you about
02:53PM 10 Anthony Gerace; do you remember that?

02:53PM 11 A. I do.

02:53PM 12 Q. That's the time when you were first with Curtis Ryan, and
02:53PM 13 after Curtis Ryan walks away the defendant comes over to you;
02:53PM 14 is that right?

02:53PM 15 A. Yes.

02:53PM 16 Q. Okay. That occurred after the conversation in June of
02:53PM 17 2016; is that right?

02:53PM 18 A. With Anthony Gerace -- regarding Anthony Gerace?

02:53PM 19 Q. Yes.

02:53PM 20 A. Yes.

02:53PM 21 Q. Okay. And so when you described for the jury earlier
02:53PM 22 that that conversation and the comments that the defendant
02:53PM 23 made to you about Anthony Gerace made you feel like you
02:53PM 24 wanted to squirm, I think is what you said, is that in the
02:53PM 25 context of this conversation about Peter Gerace from June of

02:53PM

1 2016?

02:53PM

2 A. It was in the context of everything that had occurred up

02:53PM

3 to that point.

02:53PM

4 Q. Okay. So that Anthony Gerace thing happens after the

02:54PM

5 conference room conversation, right?

02:54PM

6 A. Yes. Yes. Years. I think it was two years.

02:54PM

7 Q. I want to talk with you about July of 2018 now, and an

02:54PM

8 individual named Ron Serio. Are you aware of that person?

02:54PM

9 A. Yes.

02:54PM

10 Q. Did you know about July of 2018 that Ron Serio had

02:54PM

11 previously been arrested by the ECSO, the Erie County

02:54PM

12 Sheriff's Office and the FBI?

02:54PM

13 A. At some point, I was made aware of that.

02:54PM

14 Q. Okay. And did you attend a proffer with Ron Serio in

02:54PM

15 July of 2018?

02:54PM

16 A. Yes, I did.

02:54PM

17 Q. Did the U.S. Attorney's Office set up that proffer

02:54PM

18 meeting?

02:54PM

19 A. Yes, they did.

02:54PM

20 Q. Did prosecutors that were handling that proffer tell you

02:54PM

21 to join the proffer?

02:54PM

22 A. Yes, they did.

02:54PM

23 Q. After the proffer happened, did you ever get a chance to

02:55PM

24 look at the defendant's purported Serio case file?

02:55PM

25 A. Yeah. Yeah. I asked my supervisor at the time in the

02:55PM 1 task force group if I could look at that file.

02:55PM 2 Q. Why did you do that?

02:55PM 3 A. Because we were looking at Anthony Gerace and individuals
02:55PM 4 that -- the reason we went to proffer Serio was because I
02:55PM 5 found a report on Anthony Gerace where Serio proffered that
02:55PM 6 he had supplied Anthony Gerace marijuana in the past.

02:55PM 7 So based on that, I told Curtis we should go over and
02:55PM 8 interview Serio again. So I did.

02:55PM 9 So I wanted to look at the Serio file because I could see
02:55PM 10 that they were connected at this point.

02:55PM 11 Q. Okay. What, if anything, did you notice about the
02:55PM 12 defendant's file on Serio as you reviewed it?

02:55PM 13 A. I -- I went through it. I retrieved the file from the
02:55PM 14 DEA file room. I went to the DEA-6 section, the reports of
02:55PM 15 investigation, which is where the narratives are in terms of
02:55PM 16 like a surveillance or an undercover report. I wanted to
02:56PM 17 read through those to see if there were any undercover
02:56PM 18 purchases of narcotics, informant briefings, things that were
02:56PM 19 more proactive, operational-type reports.

02:56PM 20 **MR. COOPER:** Ms. Champoux, can we pull up 8A-6.

02:56PM 21 **BY MR. COOPER:**

02:56PM 22 Q. Is this a list of all the 6s that were contained in that
02:56PM 23 DEA case file into Serio?

02:56PM 24 A. I -- I don't know for sure.

02:56PM 25 Q. Okay.

02:56PM 1 **MR. COOPER:** You can take it down, Ms. Champoux.

02:56PM 2 **BY MR. COOPER:**

02:56PM 3 Q. After the proffer, did you learn that you could no longer
02:56PM 4 be a case agent investigating Peter Gerace or Ron Serio?

02:56PM 5 A. There was a point when I was told to no longer -- that I
02:56PM 6 was no longer going to be involved in the investigation of
02:56PM 7 Peter Gerace.

02:56PM 8 Q. Was that after you reported the race-related comments
02:56PM 9 that the defendant made to you in the conference room?

02:56PM 10 A. It was after that. I was called in to a meeting with our
02:56PM 11 resident agent in charge and my supervisor, told several
02:56PM 12 things and one of them was that I was off the Gerace
02:57PM 13 investigation.

02:57PM 14 Q. Were you happy about that?

02:57PM 15 A. No. No. No, things were starting to progress at that
02:57PM 16 point. And we had some really good information. So I was
02:57PM 17 upset about it.

02:57PM 18 Q. Okay. Did you understand why the decision was being
02:57PM 19 made?

02:57PM 20 A. Not so much at the time, but I eventually understood why
02:57PM 21 afterwards.

02:57PM 22 Q. Is that because you had become a fact witness in the
02:57PM 23 investigation?

02:57PM 24 A. Yes. Yes.

02:57PM 25 Q. Okay.

02:57PM 1 MR. COOPER: Just one second, please, Judge.

02:57PM 2 THE COURT: Sure.

02:58PM 3 BY MR. COOPER:

02:58PM 4 Q. Just a few more questions to close up here, Special Agent
02:58PM 5 Casullo.

02:58PM 6 That Serio proffer that you attended that we discussed,
02:58PM 7 did that occur on July 20th of 2018?

02:58PM 8 A. It could have, I don't remember the exact date. But
02:58PM 9 around that timeframe.

02:58PM 10 Q. Okay. Did you -- when you reported the race-related
02:58PM 11 comments from the June 2016 conference room interaction, was
02:58PM 12 that to the U.S. Attorney's Office as well as your supervisor
02:58PM 13 from the DEA?

02:58PM 14 A. Yes.

02:58PM 15 Q. At the same time?

02:58PM 16 A. Yeah, it was a meeting at the U.S. Attorney's Office, and
02:58PM 17 my supervisor was present.

02:58PM 18 Q. Who was your supervisor that was present?

02:58PM 19 A. Jim McHugh.

02:58PM 20 Q. Okay. And did that meeting where you reported those
02:58PM 21 race-related comments happen on or about August 1st, 2018?

02:58PM 22 A. Yeah, it certainly could have been around that time.

02:58PM 23 Q. Was it after that Serio proffer happened?

02:58PM 24 A. Yes.

02:58PM 25 Q. Okay. The last thing I want to speak with you about is

02:58PM 1 one of the comments that were made during that June 2016
02:58PM 2 conference room discussion with the defendant.

02:58PM 3 The one about that kid called me when a dancer overdosed
02:58PM 4 at the club, and I told him to get her out of there.

02:59PM 5 Does the DEA investigate drug overdoses?

02:59PM 6 A. Oh, yes.

02:59PM 7 Q. Okay. Is that something that happened in 2016? Did the
02:59PM 8 DEA investigate overdoses back in 2016?

02:59PM 9 A. Oh, yes.

02:59PM 10 Q. Okay. Are those some of the most serious crimes that the
02:59PM 11 DEA investigates?

02:59PM 12 A. They can be, if someone dies.

02:59PM 13 Q. If a person overdoses, can the DEA investigate who
02:59PM 14 provided that person the drugs?

02:59PM 15 A. Oh, absolutely.

02:59PM 16 Q. Okay. And is that conduct that's chargeable in federal
02:59PM 17 court?

02:59PM 18 A. It can be.

02:59PM 19 Q. Okay. Is the DEA charged with investigating overdoses
02:59PM 20 related to drug distribution?

02:59PM 21 A. In terms of enforcing the U.S. drug laws, yes.

02:59PM 22 Q. Is there a U.S. drug law about drug overdoses?

02:59PM 23 A. I don't know specific to drug overdoses, but specific to
02:59PM 24 drug trafficking and possession of narcotics and those types
02:59PM 25 of things.

Q. Okay. So if someone is dealing drugs, and it causes an overdose, is that within what the DEA is charged with investigating?

A. Yes.

Q. Did the defendant tell you that during his conversation with Gerace, he had started investigating that overdose?

A. No.

MR. COOPER: I have no further direct, Judge. Thank you.

THE COURT: Mr. Singer?

CROSS-EXAMINATION BY MR. SINGER:

Q. We can start. I just want to lock down a couple of dates, Mr. Casullo. So I'm going to hand you of a copy of what's marked as Government Exhibit 3557U.

I'm going to hand you page 4 of that. It's a narrative. I'll just ask you to review that, please, see if that helps refresh your memory as to the exact date you sat down at the U.S. Attorney's Office.

MR. TRIPI: Can you repeat the exhibit?

MR. SINGER: 3557U.

BY MR. SINGER:

Q. Does that help refresh your memory as to the date you met at the U.S. Attorney's Office, sir?

A. It says August 1st, 2 -- yes.

03:01PM 1 Q. I don't want to ask you what it says?

03:01PM 2 A. Yes.

03:01PM 3 Q. Does it refresh --

03:01PM 4 A. Yes.

03:01PM 5 Q. And that date was August 1st?

03:01PM 6 A. August 1st.

03:01PM 7 Q. So the conversation that you allege you had in the

03:01PM 8 conference room at the DEA with Mr. Bongiovanni, that occurs

03:01PM 9 in June of 2016 sometime?

03:01PM 10 A. Yes.

03:01PM 11 Q. The conversation that you have at your desk regarding

03:02PM 12 Anthony Gerace, that occurs in August of 2018?

03:02PM 13 A. I believe so.

03:02PM 14 Q. The proffer that you have with Ron Serio, that occurs

03:02PM 15 prior to the August 1st U.S. Attorney's Office meeting,

03:02PM 16 right?

03:02PM 17 A. Yes.

03:02PM 18 Q. And I know Mr. Cooper threw a date at you of July 20th of

03:02PM 19 that proffer. I'll throw the same date out with you. Do you

03:02PM 20 have any reason to disagree with both of us that's when that

03:02PM 21 happened?

03:02PM 22 A. No.

03:02PM 23 Q. Okay. All right.

03:02PM 24 A. Sir, and just -- unless I read that wrong, I believe it

03:02PM 25 says on or about. On or about. I could be wrong. If I look

1 at it again, but it says on or about.

2 Q. So I'll hand you back 3557U. I'll just direct your
3 attention to that last full paragraph, first sentence.

4 A. Yep. It's on. It's not on or about. Yep. Sorry.

5 Q. So I'm going to take that away from you.

6 So you're confident at this point August 1st, 2018 is
7 that date you met at the U.S. Attorney's Office?

8 A. Yeah, based on that report.

9 Q. Okay. All right. Perfect.

10 So you start your career with the DEA in 1999; is that
11 right?

12 A. 1999. July of '99.

13 Q. And your first duty station was Las Vegas, correct?

14 A. It was.

15 Q. And part of your duties at DEA Las Vegas was you
16 investigated narcotics-related crimes, correct?

17 A. Yes.

18 Q. So some of those investigations you mentioned involved
19 figures, because law enforcement had a belief, also had an
20 association or nexus to Italian Organized Crime?

21 A. For me, that came up. Yep.

22 Q. And that was because one of your bosses, I think he had
23 worked in the LA division at some point; is that right?

24 A. New York.

25 Q. New York?

03:03PM

1 A. Yep.

03:03PM

2 Q. He investigated crimes involving potential IOC

03:03PM

3 connections, as well?

03:03PM

4 A. He did.

03:03PM

5 Q. And that was something you that he brought to the office

03:03PM

6 out in Vegas?

03:03PM

7 A. He did. Again, he was a supervisor, but there were

03:03PM

8 several cases --

03:03PM

9 Q. Okay.

03:03PM

10 A. -- that he was involved in in one way or another.

03:03PM

11 Q. And some of those cases they involve possible IOC nexuses

03:04PM

12 in Vegas that you worked on?

03:04PM

13 A. Yes.

03:04PM

14 Q. That's how you got exposed to those type of cases?

03:04PM

15 A. Yes.

03:04PM

16 Q. All right. So as part of your work out in Vegas, in

03:04PM

17 2004, your investigation into other drug traffickers who had

03:04PM

18 a potential IOC nexus to Buffalo as well, that identified

03:04PM

19 Mike Masecchia as a potential target of the investigation?

03:04PM

20 A. He was at some point.

03:04PM

21 Q. Okay. And so the way I understood it was that Michael

03:04PM

22 Masecchia had some type of connection to people in Las Vegas

03:04PM

23 you were looking at who came from Buffalo at one point in

03:04PM

24 time?

03:04PM

25 A. Pretty much.

03:04PM 1 Q. Or they had relatives back in Buffalo?

03:04PM 2 A. They were relatives, yeah.

03:04PM 3 Q. All right. So Mike Masecchia at that point in time, he's

03:04PM 4 not living in Las Vegas, correct?

03:04PM 5 A. No. To the best of my knowledge, no.

03:04PM 6 Q. Yes. Because you took a look and made sure that he

03:04PM 7 wasn't living in Vegas, correct?

03:04PM 8 A. We were doing surveillance and we never saw him there.

03:04PM 9 Q. So you come to a belief, based on intelligence you

03:05PM 10 received, that Michael Masecchia may be moving out to

03:05PM 11 Las Vegas at some point in the future?

03:05PM 12 A. Correct.

03:05PM 13 Q. And that was potentially to live at a relative's house in

03:05PM 14 Las Vegas, correct?

03:05PM 15 A. He was supposed to move into a house one of the people

03:05PM 16 that we were targeting, and I believe through marriage they

03:05PM 17 were related somehow.

03:05PM 18 Q. And so that's why you ended up calling Special Agent Mike

03:05PM 19 Hill at the Buffalo office, correct?

03:05PM 20 A. We did, because we knew Masecchia was from Buffalo, he

03:05PM 21 was a school teacher there. And at that point we had pulled

03:05PM 22 phone records on some of the targets we were looking at in

03:05PM 23 Las Vegas, and some of those targets were in contact with 716

03:05PM 24 phone numbers.

03:05PM 25 Q. Yeah. And so you mentioned on direct that Special Agent

03:05PM 1 Hill, he's somebody who you went to the academy with,

03:05PM 2 correct?

03:05PM 3 A. Yes, sir.

03:05PM 4 Q. Somebody that you trusted, correct?

03:05PM 5 A. Yes.

03:05PM 6 Q. He was someone who was located locally in Buffalo at the
03:05PM 7 time?

03:05PM 8 A. He was.

03:05PM 9 Q. He worked in the Buffalo office right here?

03:05PM 10 A. Yes.

03:05PM 11 Q. Right down the street?

03:05PM 12 A. Yes.

03:05PM 13 Q. And you had no reason to believe that Mike Masecchia was
03:05PM 14 living in Las Vegas, right?

03:06PM 15 A. Not at that point.

03:06PM 16 Q. But you did have reason to believe that he was living in
03:06PM 17 Buffalo, correct?

03:06PM 18 A. At that point, we still thought he was in Buffalo.

03:06PM 19 Q. So naturally you would reach out to the office closest to
03:06PM 20 him to see if they could help you out with the investigation
03:06PM 21 you're conducting?

03:06PM 22 A. Yes.

03:06PM 23 Q. So Agent Mike Hill, you briefed him on the investigation
03:06PM 24 that was ongoing in Las Vegas, right?

03:06PM 25 A. Yeah, gave him a general idea of it.

03:06PM 1 Q. And you gave him a little better understanding of how
03:06PM 2 Mike Masecchia related to the investigation in Las Vegas,
03:06PM 3 correct?

03:06PM 4 A. Yes.

03:06PM 5 Q. And you also told him that Mike Masecchia was somebody
03:06PM 6 who you believe was residing in the Buffalo area?

03:06PM 7 A. Believed that he was still in Buffalo, and possibly
03:06PM 8 moving out to Vegas.

03:06PM 9 Q. And that was based on the intelligence you received,
03:06PM 10 correct?

03:06PM 11 A. At the time.

03:06PM 12 Q. And it was also based on the phone numbers that you had
03:06PM 13 looked up associated with Mike Masecchia, right?

03:06PM 14 A. Yeah. I don't remember at that point if we had
03:06PM 15 Masecchia's number identified at that point. So what I can
03:06PM 16 say is that the targets that we were looking at in Vegas at
03:06PM 17 that time were in contact with some 716 numbers. I don't
03:07PM 18 remember if Masecchia was one of them at that point.

03:07PM 19 Q. All right. So, sum and substance is that you asked
03:07PM 20 Special Agent Hill, since he was located in Buffalo and Mike
03:07PM 21 Masecchia was located in Buffalo, to investigate Mike
03:07PM 22 Masecchia and see what nexus he and you could draw to what
03:07PM 23 was going on in Vegas, correct?

03:07PM 24 A. Yeah. To see if they could identify the phone numbers
03:07PM 25 that we were providing them, and to see what they could

03:07PM 1 develop on Masecchia as well.

03:07PM 2 Q. So Mike Hill, he opens up a file title Mike Masecchia in
03:07PM 3 Buffalo, correct?

03:07PM 4 A. He eventually did, yep.

03:07PM 5 Q. That's a new investigation that's different from yours,
03:07PM 6 but related?

03:07PM 7 A. Correct.

03:07PM 8 Q. And I think we've been through this before in the trial,
03:07PM 9 but when you have a situation like that, agents tend to
03:07PM 10 cross-reference reports they write on their file to the other
03:07PM 11 file in existence at the different office?

03:07PM 12 A. That's correct.

03:07PM 13 Q. So you were doing that for your Vegas reports, you were
03:07PM 14 cross-referencing them to the Buffalo file?

03:07PM 15 A. Yes.

03:07PM 16 Q. And Mike -- sorry, Michael Hill, he was cross-referencing
03:08PM 17 his reports he wrote here to your file?

03:08PM 18 A. He should have been. I can't remember if he did for
03:08PM 19 sure, or if he was just faxing them to me. But either way, I
03:08PM 20 was getting the reports.

03:08PM 21 Q. You so you were getting the information about what they
03:08PM 22 were doing here in Buffalo?

03:08PM 23 A. Yes.

03:08PM 24 Q. And your understanding was that what they were doing here
03:08PM 25 in Buffalo is they had subpoenaed records to figure out

whether the phone numbers you had in Vegas were associated with Mike Masecchia, correct?

A. It wasn't specific to Mike, it was here's a list of 716 numbers. Can you identify these numbers, and see who they belong to, if it's other criminals or whoever. It wasn't specific to Mike.

But again, we gave him the information on Mike as well to see what they could develop on Mike.

Q. Okay. And then eventually at some point in time you receive a call from Special Agent Bongiovanni about Mike Masecchia, correct?

A. I did.

Q. So he called you up, I think you said, it was a little out of the blue, right?

A. Unexpected.

Q. And it was unexpected because you had spoken with Mike Hill who you were good friends with based on your academy relationship?

A. Unexpected because I would have expected Mike to give me a heads-up if anybody was going to call me.

Q. All right. But Mike didn't give you a heads-up about that, right?

A. He didn't.

Q. But you're aware of the fact that Agent Bongiovanni at the time works in the same group as Mike Hill, right?

03:09PM 1 A. I don't know if I knew that when I initially spoke to
03:09PM 2 Mike, but I found out after Bongiovanni called me.

03:09PM 3 Q. All right. And, I mean, you've been in the DEA at that
03:09PM 4 point in time for a couple years, but you had a 20-year-plus
03:09PM 5 career, correct?

03:09PM 6 A. Total?

03:09PM 7 Q. Yeah.

03:09PM 8 A. Yes.

03:09PM 9 Q. Okay. And it's not uncommon for people who work in the
03:09PM 10 same group to assist other agents with investigations they
03:09PM 11 might not be the case agent on, right?

03:09PM 12 A. That's not uncommon.

03:09PM 13 Q. All right. So, Agent Bongiovanni gives you a call, and
03:09PM 14 he mentions, hey, you know, I know Mike Masecchia based on
03:09PM 15 the fact that I grew up with him and went to school with him,
03:09PM 16 correct?

03:09PM 17 A. He said that.

03:09PM 18 Q. And, you know, that's not something that's uncommon in
03:09PM 19 the City of Buffalo, right?

03:09PM 20 A. No.

03:09PM 21 Q. You're from here, correct?

03:09PM 22 A. Yes.

03:09PM 23 Q. In fact, you testified on direct that you knew who Mike
03:09PM 24 Masecchia was before you even started the investigation,
03:09PM 25 right?

03:10PM 1 A. Correct.

03:10PM 2 Q. That was based on the fact that you grew up in the North

03:10PM 3 Buffalo area?

03:10PM 4 A. I grew up in Kenmore.

03:10PM 5 Q. Yeah, Kenmore, I'm sorry. But you went to the Fitness

03:10PM 6 Factory gym; is that right?

03:10PM 7 A. That's correct.

03:10PM 8 Q. And that's where you had seen Mike Masecchia?

03:10PM 9 A. That's the first time I ever saw him.

03:10PM 10 Q. And you're familiar with him based on seeing him at the

03:10PM 11 gym?

03:10PM 12 A. Pretty much.

03:10PM 13 Q. Okay. So Mr. Bongiovanni, during that phone call, he

03:10PM 14 mentions this information, correct, that he has. That I know

03:10PM 15 him, I grew up with him?

03:10PM 16 A. I grew up with him -- to the effect that I grew up with

03:10PM 17 him in North Buffalo.

03:10PM 18 Q. And he also mentions that based on what he's heard, the

03:10PM 19 Erie County Sheriff's Office has some type of investigation

03:10PM 20 going on into marijuana grow operations somewhere in the

03:10PM 21 Southern Tier of New York?

03:10PM 22 A. Related to Masecchia.

03:10PM 23 Q. Correct. Related to Mike Masecchia, right?

03:10PM 24 A. Yes.

03:10PM 25 Q. And so your case out in Vegas, it involves obviously a

03:10PM 1 drug nexus, correct?

03:10PM 2 A. Correct.

03:10PM 3 Q. And your case also involves a potential nexus with

03:11PM 4 Italian Organized Crime, right?

03:11PM 5 A. Yes. Yep.

03:11PM 6 Q. At that point in time, Mr. Bongiovanni provided you

03:11PM 7 information about there may be a drug nexus that perhaps

03:11PM 8 exists out here, correct?

03:11PM 9 A. Yeah, specific to what we said about the outdoor grows.

03:11PM 10 Q. And that might have some relationship to the targets

03:11PM 11 you're looking at in Vegas, right?

03:11PM 12 A. It gave us a drug nexus that we didn't have before. We

03:11PM 13 didn't have that knowledge before regarding Masecchia.

03:11PM 14 Q. So that was valuable information, right?

03:11PM 15 A. It was good intelligence.

03:11PM 16 Q. And when you got this call, did you ask him any specific

03:11PM 17 questions about what he knew about Mike Masecchia based on

03:11PM 18 the fact that they grew up?

03:11PM 19 A. No, we really didn't talk much -- I'm sorry, specific to

03:11PM 20 what? Could you ask that again?

03:11PM 21 Q. Sure. Did you ask him any specific questions about -- so

03:11PM 22 you just said that you grew up with Mike Masecchia, what can

03:11PM 23 you tell me about him? Did you ever ask him a question about

03:11PM 24 that?

03:11PM 25 A. No, we really didn't talk much about that, other than him

03:12PM 1 providing what he provided, about him possibly being involved
03:12PM 2 with the outdoor marijuana grows and the Erie County
03:12PM 3 Sheriff's Office was investigating that, I don't think I
03:12PM 4 asked many questions.

03:12PM 5 Q. Did you note that in any type of report that you had on
03:12PM 6 the case?

03:12PM 7 A. Did I note what?

03:12PM 8 Q. The conversation you had with Agent Bongiovanni?

03:12PM 9 A. I did not do a DEA-6 specific to the conversation with
03:12PM 10 Joe Bongiovanni.

03:12PM 11 Q. Was there a reason why you didn't do that?

03:12PM 12 A. Yeah. It really wasn't that long of a conversation. At
03:12PM 13 the time, I didn't think it was that significant other than
03:12PM 14 the intelligence regarding the outdoor grow, but I chose not
03:12PM 15 to.

03:12PM 16 Q. So, you hang up the phone with him, correct?

03:12PM 17 A. At some point.

03:12PM 18 Q. And your understanding is that Mike Hill continues to try
03:12PM 19 to work the telephone numbers that you provided him?

03:12PM 20 A. He said he would look into the telephone numbers. And at
03:12PM 21 some point I don't know if he said at the time they were
03:12PM 22 going to open up a case, but they would start looking at it.

03:12PM 23 Q. To your understanding, though, the Mike Masecchia
03:13PM 24 connection to who you're looking at in Vegas never really
03:13PM 25 materializes, right?

03:13PM 1 A. To the best of our knowledge, he never moved out to
03:13PM 2 Vegas.

03:13PM 3 Q. Yeah. There are a couple reasons for that. One of those
03:13PM 4 reasons is that Mike Masecchia never moves out to Vegas,
03:13PM 5 right?

03:13PM 6 A. Again, to the best of my knowledge. We never saw him out
03:13PM 7 there, so I don't think he did.

03:13PM 8 Q. Another reason you provided on direct that Mike
03:13PM 9 Masecchia, when you're doing these wire intercepts, never
03:13PM 10 shows up on the wire intercepts?

03:13PM 11 A. We never intercepted him on the wire.

03:13PM 12 Q. Another reason why you provided is that you were not
03:13PM 13 really interested in investigating the drug nexus that may
03:13PM 14 exist in the Southern Tier, correct?

03:13PM 15 A. That wouldn't be something that we would do. That would
03:13PM 16 be something that the Buffalo office would do.

03:13PM 17 Q. It's out of your jurisdiction, for lack of a better term?

03:13PM 18 A. Yeah. Operationally, that's for them to do, not us.

03:13PM 19 Q. You're over in Vegas, and they're up here in New York
03:13PM 20 and --

03:13PM 21 A. Yep.

03:13PM 22 Q. -- you're not going to pick up a marijuana grow up in
03:13PM 23 New York?

03:13PM 24 A. That would be something they would do.

03:13PM 25 Q. Now if your investigation revealed there was marijuana

1 being transported from New York down to Vegas, that's
2 something you might be interested in, right?

3 A. That would be of more interest at that point, because
4 then there's more of a direct nexus to Vegas in terms of a
5 drug nexus.

6 Q. And Mike Hill never informs you that the Sheriff's Office
7 investigation into this grow yielded any results, correct?

8 A. I never heard about it again. Mike never mentioned it.

9 Q. As far as the phone number that you provided, Mike Hill
10 provides you information that nothing really materializes on
11 those either, correct?

12 A. They subpoenaed the phone numbers. I think they
13 identified some of the phone numbers. But they never got to
14 the point that they were actually working a wiretap
15 investigation.

16 Q. So, safe to say that Mike Masecchia connection to your
17 2004 Vegas investigation really doesn't go anywhere, right?

18 A. As far as regarding Masecchia? No. We never saw him.
19 We never got him on our wires. We never indicted him.

20 Q. And as far as I guess the conversation you had, one of
21 the things you mentioned, Mr. Casullo, was that
22 Mr. Bongiovanni mentioned to you that he could not have his
23 name associated with the file; is that right?

24 A. He said he couldn't have his name on any reports.

25 Q. And, you know, the reason why he gave to you that

03:15PM 1 was that he grew up with this guy who lives in North Buffalo,
03:15PM 2 and sometimes he sees him, right?

03:15PM 3 A. I don't know if he sees him, or not. But he mentioned
03:15PM 4 that he grew up with him, and that he knew him.

03:15PM 5 Q. And they live in the same area to your understanding,
03:15PM 6 correct?

03:15PM 7 A. He mentioned North Buffalo. I don't know if Masecchia
03:15PM 8 still lived in North Buffalo at the time, but again, they
03:15PM 9 grew up together. I don't know if they were currently close
03:15PM 10 in terms of geographic location or not.

03:15PM 11 Q. Yeah. So, for instance, you mentioned earlier that you
03:15PM 12 went to the Fitness Factory when you lived back in Buffalo?

03:15PM 13 A. Yes.

03:15PM 14 Q. You saw Mike Masecchia at the Fitness Factory?

03:15PM 15 A. I did, several times.

03:15PM 16 Q. And so your understanding of the investigation is
03:15PM 17 obviously as investigations are ongoing, the information
03:15PM 18 that's possessed by a law enforcement agency is secret,
03:16PM 19 correct?

03:16PM 20 A. It's considered law enforcement sensitive.

03:16PM 21 Q. And that's not something that's disclosed to the target
03:16PM 22 of an investigation at that time, correct?

03:16PM 23 A. No.

03:16PM 24 Q. But after someone is charged with a crime, they're
03:16PM 25 entitled to discovery, correct?

03:16PM 1 A. There's a discovery process where those reports would be
03:16PM 2 turned over.

03:16PM 3 Q. Yeah. And so after someone is charged with a crime, a
03:16PM 4 defense attorney like me makes a discovery request to the
03:16PM 5 government, right?

03:16PM 6 A. Correct.

03:16PM 7 Q. And then the reports that you generate as a result of
03:16PM 8 your investigation onto that target, they get turned over to
03:16PM 9 the defense, correct?

03:16PM 10 A. That's correct.

03:16PM 11 Q. And the defendant in a criminal case has the right to
03:16PM 12 review those materials to help his or her defense attorney
03:16PM 13 prepare a case, right?

03:16PM 14 A. Correct.

03:16PM 15 Q. So at that point in time, they can look at the reports
03:16PM 16 and see someone's name on it, right?

03:16PM 17 A. Correct.

03:16PM 18 Q. Like, you had this situation pop up in the Myszka case,
03:16PM 19 correct?

03:16PM 20 A. Could you be more specific?

03:16PM 21 Q. Certainly. So as part of the investigation you had into
03:16PM 22 Kevin Myszka, a person associated with Kevin Myszka was a
03:16PM 23 person by the name of Wolfson?

03:16PM 24 A. Jordan Wolfson.

03:17PM 25 Q. Jordan Wolfson. And there was a connection that you had

03:17PM 1 to Jordan Wolfson completely divorced from your

03:17PM 2 responsibilities at the DEA, correct?

03:17PM 3 A. Found out afterwards.

03:17PM 4 Q. Right. So Jordan Wolfson was someone who I think was --

03:17PM 5 your children were on the same sports team as his children?

03:17PM 6 A. Correct.

03:17PM 7 Q. And, you know, if your name showed up on a report where

03:17PM 8 Jordan Wolfson was a target, that would create a little bit

03:17PM 9 of an awkward situation, right?

03:17PM 10 A. I did write a report with his name.

03:17PM 11 Q. Um-hum. And if Jordan Wolfson got a report, that's

03:17PM 12 something that would potentially create an awkward situation,

03:17PM 13 right?

03:17PM 14 A. It would be awkward.

03:17PM 15 Q. And so, you know, kind of going back to Mr. Bongiovanni

03:17PM 16 and your conversation with him in 2004, that may be a reason

03:17PM 17 why he said, hey, I just don't want to have my name on --

03:17PM 18 **MR. COOPER:** Objection as to there may be a reason

03:17PM 19 why, Judge, he's asking him to speculate.

03:17PM 20 **THE COURT:** No, I think it's fair in this context.

03:17PM 21 Overruled.

03:17PM 22 **THE WITNESS:** Could you repeat the question, please?

03:17PM 23 **BY MR. SINGER:**

03:17PM 24 Q. Sure. And so going back to 2004, going back to Joe

03:17PM 25 Bongiovanni's conversation with you in 2004, for the same

03:17PM 1 reason, he might have had some concerns about being on a
03:17PM 2 report involving Mike Masecchia?

03:17PM 3 A. It could be.

03:18PM 4 **MR. SINGER:** 3:30, Judge? Or --

03:18PM 5 **THE COURT:** Any time. Well, I was thinking around
03:18PM 6 3:40 actually.

03:18PM 7 **MR. SINGER:** Sure.

03:18PM 8 **THE COURT:** Which would be about a halfway split.

03:18PM 9 **MR. SINGER:** I can keep going, Judge, no problem.

03:18PM 10 **BY MR. SINGER:**

03:18PM 11 Q. So, your case doesn't involve Masecchia in 2005, but it
03:18PM 12 does result in arrests of some targets that you're looking
03:18PM 13 into out in Vegas?

03:18PM 14 A. It did, ultimately.

03:18PM 15 Q. And those individuals are eventually charged and
03:18PM 16 convicted?

03:18PM 17 A. They were charged, and they were convicted, correct.
03:18PM 18 They pled, I believe.

03:18PM 19 Q. So you were also asked about the 2009 time period of a
03:18PM 20 Buffalo DEA file opened up on Masecchia; do you remember
03:18PM 21 that, sir?

03:18PM 22 A. I do.

03:19PM 23 Q. And this was is the Mark Suppa file?

03:19PM 24 A. Yes.

03:19PM 25 **MR. SINGER:** Ms. Champoux, can we bring up Government

03:19PM 1 Exhibit 12B, please? As in boy.

03:19PM 2 **BY MR. SINGER:**

03:19PM 3 Q. This is what we were talking about that you saw on
03:19PM 4 direct, sir?

03:19PM 5 A. Yes.

03:19PM 6 Q. And so the Suppa file, to your understanding, was opened
03:19PM 7 up by an individual by the name of Task Force Officer Cory
03:19PM 8 Higgins?

03:19PM 9 A. Correct.

03:19PM 10 Q. And Cory Higgins, he was somebody, based on the report
03:19PM 11 you're looking at in 12B, you don't know Cory Higgins before
03:19PM 12 you moved back to Buffalo, right?

03:19PM 13 A. I don't know if I ever met Cory Higgins before I came
03:19PM 14 back. I may have met him, again, coming home during summers.
03:19PM 15 I can't remember if I knew him or not.

03:19PM 16 Q. But, like, 2009 time period, you guys don't know each
03:19PM 17 other to the extent where you would contact each other on,
03:19PM 18 like, a personal level?

03:19PM 19 A. No.

03:19PM 20 Q. All right. So he works, based on the report, in a group
03:19PM 21 D-58?

03:20PM 22 A. Correct.

03:20PM 23 Q. So D-58 opens up an investigation into marijuana grows
03:20PM 24 with the target of Mark Suppa, correct?

03:20PM 25 A. That's correct.

03:20PM 1 **MR. SINGER:** If we can move to the second page of
03:20PM 2 this document, Ms. Champoux. Thank you.

03:20PM 3 And if we can blow up the indexing section.

03:20PM 4 **BY MR. SINGER:**

03:20PM 5 Q. So, the government asked -- I think the term was used,
03:20PM 6 did anyone ask you about Mike Masecchia, and they referred to
03:20PM 7 as "your guy;" do you remember that?

03:20PM 8 A. I don't remember the exact words, but generally, I
03:20PM 9 remember what you're talking about.

03:20PM 10 Q. And I think the question that was asked is why nobody
03:20PM 11 contacted about "your guy" when Mike Masecchia all of a
03:20PM 12 sudden came under investigation in 2009; do you recall that?

03:20PM 13 A. Generally, yes.

03:20PM 14 Q. All right. So, Mike Masecchia, at that point in time in
03:20PM 15 2009, wasn't living out in Las Vegas, correct?

03:20PM 16 A. Not to the best of my knowledge. We weren't
03:21PM 17 investigating him, so I have no idea.

03:21PM 18 Q. Yeah. And so that's what I'm getting at. Your case that
03:21PM 19 you opened up that involved Mike Masecchia in 2004, that was
03:21PM 20 closed?

03:21PM 21 A. That was closed.

03:21PM 22 Q. Like, many years prior to 2009, correct?

03:21PM 23 A. I don't remember the exact year, but maybe 2006. Maybe.
03:21PM 24 Around there.

03:21PM 25 Q. So at that point, possibly three or more years?

03:21PM 1 A. Yeah.

03:21PM 2 Q. And so at that point in time, you really don't have any
03:21PM 3 reason to discuss Mike Masecchia, correct?

03:21PM 4 A. That all depends.

03:21PM 5 Q. Yeah. It depends. So, like, for instance, your case
03:21PM 6 file is closed, right?

03:21PM 7 A. My case file was closed at that point.

03:21PM 8 Q. But just because a case file is closed doesn't mean that
03:21PM 9 you never, ever look at a target of investigation again,
03:21PM 10 correct?

03:21PM 11 A. No. Right. That's correct.

03:21PM 12 Q. Yeah. So, like, if a new lead develops on a target of
03:21PM 13 investigation, and the case file is closed, you can open up
03:21PM 14 the case file again, correct?

03:21PM 15 A. Possibly. Depending on the facts.

03:21PM 16 Q. Yeah, it depends on the nature of the lead, right?

03:22PM 17 A. Correct.

03:22PM 18 Q. So if a lead develops something that's fruitful for you
03:22PM 19 to use, you can reopen the case file, correct?

03:22PM 20 A. You could.

03:22PM 21 Q. But if the lead is not something that's really useful,
03:22PM 22 you're probably gonna make the decision, well, I'm gonna just
03:22PM 23 keep this closed, because it's not going to help me, correct?

03:22PM 24 A. Yeah. If there's nothing new that would help us, then we
03:22PM 25 wouldn't open a case.

03:22PM 1 Q. All right. So going back to the opening of this case
03:22PM 2 file. Your understanding is that Joe Bongiovanni was not
03:22PM 3 involved in Cory Higgins's investigation into Mike Masecchia
03:22PM 4 in 2009, right?

03:22PM 5 A. I don't know that.

03:22PM 6 Q. You have no idea?

03:22PM 7 A. I don't -- I don't even know what group he's in at that
03:22PM 8 point.

03:22PM 9 Q. Okay. So you don't know if Joe Bongiovanni is in group
03:22PM 10 D-57 or D-58?

03:22PM 11 A. No.

03:22PM 12 Q. You don't know if they have, you know, the same group?

03:22PM 13 A. No.

03:22PM 14 Q. So, you at least know that Cory Higgins works in D-58
03:22PM 15 this time, correct?

03:22PM 16 A. He's a task force officer. And based on the report,
03:22PM 17 again, because there's task force officers in both groups,
03:22PM 18 but that's, like, the formal task force group.

03:23PM 19 But reading that report, I can certainly see that he was
03:23PM 20 assigned to D-58.

03:23PM 21 Q. Okay. So as far as Higgins is concerned, when Higgins
03:23PM 22 opens up this particular file, he indexes three people,
03:23PM 23 correct?

03:23PM 24 A. Correct.

03:23PM 25 Q. So the first person that's is in that indexing section,

03:23PM 1 that's Mark Suppa?

03:23PM 2 A. That's correct.

03:23PM 3 Q. And Suppa is the file title on this case, correct?

03:23PM 4 A. That's correct.

03:23PM 5 Q. Yeah. See it right up there?

03:23PM 6 A. Now I do.

03:23PM 7 Q. August 3?

03:23PM 8 A. Yep. Now I do.

03:23PM 9 Q. Okay. Perfect. So he's the file title, so naturally

03:23PM 10 he's gonna be number 1 in the indexing section, right?

03:23PM 11 A. It doesn't have to be, but that makes sense, right.

03:23PM 12 Q. And so as far as entry into the system, it looks like --

03:23PM 13 where it says negative here, and you have this other number

03:23PM 14 appearing right up here, it looks like Mark Suppa didn't have

03:23PM 15 a NADDIS number back in 2009 when this file was opened up?

03:23PM 16 A. If it says negative, then based on what I'm reading here,

03:23PM 17 then he didn't have a NADDIS number.

03:24PM 18 Q. So it looks like when the electronic system kind of

03:24PM 19 caught up to the paperwork, the NADDIS number, which is that

03:24PM 20 circle on the right, was entered onto the DEA-6, right?

03:24PM 21 A. That's what it looks like.

03:24PM 22 Q. And the same thing for Matt Suppa, who's the second

03:24PM 23 indexing person there?

03:24PM 24 A. Correct.

03:24PM 25 Q. Looks like negative NADDIS number at first, right?

03:24PM 1 A. Correct.

03:24PM 2 Q. But then the NADDIS number was entered, correct?

03:24PM 3 A. Yeah, same as for Mark.

03:24PM 4 Q. But it appears like Mike Masecchia does have a NADDIS
03:24PM 5 number, correct?

03:24PM 6 A. Based on how this is written. If he didn't, or they
03:24PM 7 couldn't find it, it should say negative.

03:24PM 8 Q. And naturally, he should have a NADDIS number, correct,
03:24PM 9 sir?

03:24PM 10 A. Oh, I know -- I know that we had him indexed in our case.

03:24PM 11 Q. Yeah. That's exactly what I'm getting at.

03:24PM 12 So that when you opened up an investigation into Mike
03:24PM 13 Masecchia in Las Vegas in 2004, when you indexed him, and he
03:24PM 14 didn't have a NADDIS number, you made sure he got a NADDIS
03:24PM 15 number, correct?

03:24PM 16 A. And that's what I remember, that he doesn't have a NADDIS
03:24PM 17 number. And that I identified him, indexed him, and then he
03:25PM 18 got the NADDIS number.

03:25PM 19 Q. And so when someone gets a NADDIS number in the DEA
03:25PM 20 system, it's not local to the particular office you're in,
03:25PM 21 correct?

03:25PM 22 A. No, that's a NADDIS number.

03:25PM 23 The way it should work is if someone's previously
03:25PM 24 identified a target, they would describe them in the indexing
03:25PM 25 section. When that report gets approved and goes through the

1 administrative process, at some point a NADDIS number should
2 be assigned to that target. So it's specific to that target.

3 Q. So, Masecchia has a NADDIS number. And your experience
4 as a DEA agent, when someone has a NADDIS number you can look
5 up in the NADDIS system why they received a NADDIS number in
6 the past, right?

7 A. If someone has a NADDIS number, you can go in and check
8 the system or pull up that NADDIS record based on that NADDIS
9 number. And it should, in that record, present some facts
10 about the previous case that that name was involved in.

11 Q. Correct. So when someone has one NADDIS number, if they
12 have three cases opened up under the same NADDIS number, they
13 are going to have three different cases associated with their
14 NADDIS number, right?

15 A. It should. And there's times where people make a
16 mistake, and they don't do it properly.

17 And then sometimes there's multiple NADDIS numbers
18 assigned to an individual.

19 And then in that case, you have to sort it out, request a
20 merging of the records. That happens on occasion.

21 Q. Yeah, we heard about that in this case.

22 But in this situation, it looks like Mike Masecchia has a
23 NADDIS number, right?

24 A. Based on what I'm looking at here, the fact that it
25 doesn't say negative like that should, the way the process

1 should work is if you run a name and you don't find that name
2 in the system, you should write "NADDIS negative."

3 So based on what I'm seeing here, I don't know, but this
4 is weird because there's something redacted before negative.
5 I don't know why that would be redacted, because it's
6 consistent with a NADDIS number.

7 So I don't know why they put something redacted, and then
8 negative. It should just be NADDIS negative.

9 But it looks like all three here had numbers, because
10 there's a redaction for all three. So that's why I don't
11 understand.

12 **MR. COOPER:** Judge, I'm just going to object. I
13 think if we can come up, we can maybe work this out.

14 **MR. SINGER:** I'm done with my questioning on this
15 point, Judge.

16 **THE COURT:** Okay. So the objection is overruled.
17 Go ahead.

18 **MR. COOPER:** Okay. We'll deal with it on our
19 redirect. Thanks.

20 **BY MR. SINGER:**

21 Q. So since there's a NADDIS entered in the system, Cory
22 Higgins is the case agent to your understanding, correct?

23 A. He wrote the case initiation, so it's most likely that
24 he's the case agent.

25 Q. So he could have picked up the phone and made a call to

03:27PM 1 you, right?

03:27PM 2 A. If Cory Higgins ran Michael Masecchia in NADDIS, and that
03:27PM 3 NADDIS number -- and found a NADDIS number, which was the
03:27PM 4 same NADDIS number that I had him indexed under, then he
03:27PM 5 could see that there -- and I'm trying to remember this, when
03:27PM 6 you run a NADDIS number, you could see the other office that
03:27PM 7 had that person indexed.

03:27PM 8 So you can investigate. You could then take that case
03:28PM 9 number and run it in the system and see who the case agents
03:28PM 10 were.

03:28PM 11 Q. And so that would lead back to you, right, because you
03:28PM 12 were one --

03:28PM 13 A. I was --

03:28PM 14 Q. -- of the case agents?

03:28PM 15 A. -- one of the case agents.

03:28PM 16 Q. And so he could have made a phone call to Las Vegas, and
03:28PM 17 said, hey, what's up with this Mike Masecchia investigation
03:28PM 18 you had going on in 2004, right?

03:28PM 19 A. If Cory Higgins want to do the research on that NADDIS
03:28PM 20 number, he could go through that process I just mentioned.

03:28PM 21 Q. And the same thing is true with Mike Hill's
03:28PM 22 investigation, correct?

03:28PM 23 So Mike Hill opened up a separate investigation to yours
03:28PM 24 out of DEA Buffalo --

03:28PM 25 A. Correct.

03:28PM 1 Q. -- office in 2004, to your understanding, correct?

03:28PM 2 A. Correct.

03:28PM 3 Q. So that case investigation and case number would have
03:28PM 4 been associated with a NADDIS number for Mike Masecchia?

03:28PM 5 A. Especially since we were coordinating so closely.

03:28PM 6 And from what I remember, Mike was aware that we indexed
03:28PM 7 him. And so when he indexed him, he used our NADDIS number.

03:28PM 8 Q. So Cory Higgins could have, not just picked up the phone,
03:28PM 9 he could have walked down the hallway and talked to Mike
03:28PM 10 Hill, right?

03:28PM 11 A. Again, if he ran that number, which was the same NADDIS
03:29PM 12 number that we had Michael Masecchia indexed under, it should
03:29PM 13 be the same number that they had, though he -- what should
03:29PM 14 happen is he would see that that NADDIS number is related to
03:29PM 15 both the Las Vegas case and the Buffalo case.

03:29PM 16 Q. All right. So, you never received any call from Cory
03:29PM 17 Higgins in 2009, correct?

03:29PM 18 A. I never received a call from Cory.

03:29PM 19 Q. You didn't receive any call from anyone out of the
03:29PM 20 Buffalo office regarding the 2009 Suppa investigation
03:29PM 21 involving Mike Masecchia, correct?

03:29PM 22 A. No.

03:29PM 23 Q. Did anyone get indicted for failing to do that, to your
03:29PM 24 knowledge, sir?

03:29PM 25 A. Did anyone -- what, sir?

Q. Did anyone get indicted for failing to do that, to your knowledge?

A. Indicted?

Q. Yeah. Did anyone get charged with a felony for not calling you up in 2009 to talk to you about your 2004 Masecchia investigation?

MR. COOPER: Objection, Judge.

THE COURT: Yeah, sustained.

MR. SINGER: We can move on, Judge.

BY MR. SINGER:

Q. So, in December of 2015, you said that you moved back to the Buffalo office, correct?

A. December of -- no, I'm sorry. September of '15, it was.

Q. It's September of '15?

A. September of '15, correct. It was right around Labor Day, I remember.

Q. All right. So September of 2015, not December, is when you moved back to Buffalo?

A. September '15 is when I got assigned to the Buffalo office.

Q. And so the government asked you whether or not Joe Bongiovanni, at that point in time you got back to the DEA office in Buffalo, asked you any questions about how your 2004 Mike Masecchia investigation went; do you remember that?

MR. COOPER: Objection. I didn't ask that question.

03:30PM 1 **THE COURT:** Then he can answer. Overruled.

03:30PM 2 **THE WITNESS:** I'm sorry, sir, could you ask the
03:30PM 3 question again, please?

03:30PM 4 **BY MR. SINGER:**

03:30PM 5 Q. Sure. When you got back to the DEA office --

03:30PM 6 A. Yes.

03:30PM 7 Q. -- in September of 2015 --

03:30PM 8 A. Yes.

03:30PM 9 Q. -- moving forward --

03:30PM 10 A. September of '15, yep.

03:30PM 11 Q. -- from September 2015 moving forward, your testimony was
03:30PM 12 that Joe Bongiovanni never asked you about your 2004 Mike
03:31PM 13 Masecchia investigation?

03:31PM 14 A. No.

03:31PM 15 Q. Never asked you?

03:31PM 16 A. No.

03:31PM 17 Q. And as far as that particular investigation was
03:31PM 18 concerned, were you aware that the -- the Ron Serio file was
03:31PM 19 closed several months before you got back to Buffalo, sir?

03:31PM 20 A. No. My belief was that it was still open, based on what
03:31PM 21 he told me when I saw the file sitting on his desk.

03:31PM 22 Q. Oh, I understand that that's what you believed, sir.

03:31PM 23 But do you know that that investigation was closed in
03:31PM 24 January of 2015 --

03:31PM 25 A. No.

03:31PM 1 Q. -- before you got to the office?

03:31PM 2 A. No. He told me he had an open case on him.

03:31PM 3 Q. Well, he didn't say that he had an open case.

03:31PM 4 **MR. COOPER:** Objection. Argumentative.

03:31PM 5 **BY MR. SINGER:**

03:31PM 6 Q. You testified earlier --

03:31PM 7 **MR. COOPER:** Objection. Argumentative.

03:31PM 8 **THE COURT:** Well, yes, you can ask a question,

03:31PM 9 Mr. Singer, you can't testify, so --

03:31PM 10 **MR. SINGER:** No problem.

03:31PM 11 **BY MR. SINGER:**

03:31PM 12 Q. You testified earlier on direct, sir, that Joe

03:31PM 13 Bongiovanni, you took from what he told you that the case was
03:31PM 14 still open; do you remember that?

03:31PM 15 **MR. COOPER:** Objection as to the form of the
03:31PM 16 question.

03:31PM 17 **THE COURT:** No overruled.

03:31PM 18 **MR. COOPER:** Joe Bongiovanni took from what he told
03:32PM 19 you earlier?

03:32PM 20 **MR. SINGER:** That's not what I said, Judge.

03:32PM 21 **MR. COOPER:** Read it back.

03:32PM 22 **THE COURT:** Ask another question.

03:32PM 23 **MR. SINGER:** Certainly.

03:32PM 24 **BY MR. SINGER:**

03:32PM 25 Q. You took from the conversation -- you testified earlier

03:32PM 1 on direct you took from the conversation you had with Joe
03:32PM 2 Bongiovanni that Joe Bongiovanni had a case file open with
03:32PM 3 the Series still; do you remember testifying to that?
03:32PM 4 A. That was my -- that was my belief after a conversation
03:32PM 5 with Joe at his desk.
03:32PM 6 Q. But you don't know the official status of the
03:32PM 7 investigation, whether it was open or closed at that point in
03:32PM 8 time?
03:32PM 9 A. No.
03:32PM 10 Q. No. You don't.
03:32PM 11 A. I -- I don't know the official status, other than what he
03:32PM 12 had told me.
03:32PM 13 Q. Yes. You surmised, based on your conversation, that it
03:32PM 14 was open, but you didn't know at the time.
03:32PM 15 A. I believe, based on what he told me, that it was an open
03:32PM 16 case.
03:32PM 17 Q. And so the 2004 investigation that you conducted into
03:32PM 18 Mike Masecchia, that really didn't produce any results,
03:32PM 19 right?
03:32PM 20 A. My investigation?
03:32PM 21 Q. Yes.
03:32PM 22 A. Our Las Vegas investigation?
03:32PM 23 Q. Yes.
03:32PM 24 A. It had results, yes.
03:32PM 25 Q. Well, I'm talking about vis-à-vis Mike Masecchia. Like,

03:32PM 1 you didn't --

03:32PM 2 A. We never indicted Michael Masecchia.

03:32PM 3 Q. And you didn't really gather any information about him
03:33PM 4 engaging in criminal activity either, correct?

03:33PM 5 A. No.

03:33PM 6 Q. Never caught him on a wire, right?

03:33PM 7 A. Never caught him on a wire.

03:33PM 8 Q. You never caught him on any type of phone logs?

03:33PM 9 A. Again, at the time, I don't know if we had Michael
03:33PM 10 Masecchia's number identified, so his number could have been
03:33PM 11 on a phone logs. I just don't remember if we had it
03:33PM 12 identified at that point.

03:33PM 13 Q. Yeah. So, basically, even if Mr. Bongiovanni asked you,
03:33PM 14 hey, how did the 2004 investigation go, there was really
03:33PM 15 nothing much to say, right?

03:33PM 16 A. No. If you asked it the way you just said, I would say
03:33PM 17 it was extremely successful, because we indicted several
03:33PM 18 people. Identified a source of supply.

03:33PM 19 Q. Again, sir, I'm not asking you questions about other
03:33PM 20 targets in that investigation.

03:33PM 21 A. You didn't say specifically Mike Masecchia.

03:33PM 22 Q. I'm asking you about Mike Masecchia.

03:33PM 23 A. But you didn't say that --

03:33PM 24 **THE COURT:** Let's stop the back and forth, folks.
03:33PM 25 Questions and answers please.

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1 **BY MR. SINGER:**

2 Q. Mike Masecchia in 2004, your investigation didn't reveal

3 any results, right?

4 A. Correct.

5 Q. So telling Mr. Bongiovanni about your 2004 investigation

6 regarding Mike Masecchia really wasn't worth much at all,

7 correct?

8 **MR. COOPER:** Objection as to form of the question,

9 whether it was worth much at all.

10 **THE COURT:** The objection to the form of the question

11 is sustained.

12 **BY MR. SINGER:**

13 Q. Your conversation with Mr. Bongiovanni about the case

14 file in 2015; do you remember that?

15 A. The conversation about the Serio case file.

16 Q. Yes.

17 A. Yes.

18 Q. Mike Masecchia, you investigated him in 2004, right?

19 A. Yes, we did.

20 Q. You didn't have anything produced as far as results

21 regarding Mike Masecchia in that investigation, right?

22 A. No, we didn't.

23 Q. The 2015 conversation that you had with Mr. Bongiovanni

24 about the Ron Serio file didn't involve the name Mike

25 Masecchia, right?

03:34PM 1 A. He never brought up Masecchia.

03:34PM 2 Q. And even if he did, there wasn't really much for you to
03:34PM 3 report about in 2004 of Mike Masecchia, right?

03:34PM 4 **MR. COOPER:** Objection as to the relevance of that,
03:34PM 5 Judge.

03:34PM 6 **THE COURT:** Overruled.

03:34PM 7 **THE WITNESS:** If he had brought up Michael Masecchia
03:34PM 8 when I was at his desk for that conversation, that would have
03:34PM 9 been of interest to me.

03:35PM 10 **BY MR. SINGER:**

03:35PM 11 Q. I'm not asking whether it was of interest to you, sir.

03:35PM 12 A. Yep.

03:35PM 13 Q. What I'm asking you is that you didn't have much
03:35PM 14 information to report to him in 2015 about what you did in
03:35PM 15 2004; is that right?

03:35PM 16 A. Yeah, we didn't do much with Michael Masecchia. Nothing
03:35PM 17 came of -- not much came of Michael Masecchia during that
03:35PM 18 2000 investigation in Las Vegas.

03:35PM 19 Q. Thank you.

03:35PM 20 **MR. SINGER:** I think it's a good time for a break,
03:35PM 21 Judge.

03:35PM 22 **THE COURT:** Okay. So let's take a break, folks.

03:35PM 23 Remember my instructions. Don't communicate about
03:35PM 24 the case, even with each other. Don't make up your minds.

03:35PM 25 See you back here in about 15 minutes or so.

03:35PM 1 (Jury excused at 3:35 p.m.)

03:35PM 2 **THE COURT:** Okay. You can step down, sir.

03:36PM 3 You're not to talk with anybody about your testimony

03:36PM 4 during the break.

03:36PM 5 **THE WITNESS:** Yes, sir.

03:36PM 6 **THE COURT:** Anything?

03:36PM 7 **MR. SINGER:** No, Judge.

03:36PM 8 **THE COURT:** Anything from the government?

03:36PM 9 **MR. COOPER:** No, thank you, Judge.

03:36PM 10 **THE COURT:** Okay. Great. See you in about 15, 20

03:36PM 11 minutes or so.

03:36PM 12 **THE CLERK:** All rise.

03:36PM 13 (Off the record at 3:36 p.m.)

03:51PM 14 (Back on the record at 3:51 p.m.)

03:51PM 15 (Jury not present.)

03:51PM 16 **THE CLERK:** All rise.

03:51PM 17 **THE COURT:** Please be seated.

03:51PM 18 **THE CLERK:** We are back on the record for the

03:51PM 19 continuation of the jury trial in case number 19-cr-227,

03:52PM 20 United States of America versus Joseph Bongiovanni.

03:52PM 21 All counsel and parties are present.

03:52PM 22 **THE COURT:** Are you ready to go?

03:52PM 23 **MR. SINGER:** Ready to go.

03:52PM 24 **THE COURT:** Are you going to finish this afternoon?

03:52PM 25 **MR. SINGER:** Oh, yeah. No, I anticipate that. I

1 think Mr. Cooper and I were saying that maybe we have time to
2 go through a direct of the next witness, maybe not.

3 **THE COURT:** Okay. Good.

4 Anything from the government?

5 **MR. COOPER:** I actually cut the next witness because
6 I thought we were finishing on Mr. Casullo today based on
7 where I ended.

8 **MR. SINGER:** Yeah. But what we talked about is maybe
9 there would be 15 or 20 minutes left over.

10 Mr. MacKay -- just so you know, Judge, Mr. MacKay,
11 he's got some hearing that he's, like, I need to get out of
12 here at 5:30.

13 **THE COURT:** I understand that. So we'll quit a
14 little early if we have to. Not a big deal.

15 Okay. Anything else?

16 **MR. COOPER:** Yeah, just one thing, Judge. There was
17 a question and there was an objection sustained, and I just
18 want to make sure it's not gonna happen again, which is
19 questions about prosecutorial charging decisions.

20 We briefed this. The Court made a pretrial ruling
21 that that wasn't something that was going to be gotten into.
22 The question has no basis other than that. It's a question
23 about this defendant, it reeks of jury nullification, and so I
24 just want to confirm that it was a slipup and it's not going
25 to happen again.

03:53PM 1 **THE COURT:** Yeah, I sustained the objection, and
03:53PM 2 there was no answer to the question, so no harm done.

03:53PM 3 **MR. COOPER:** Okay. Then I'm good to go.

03:53PM 4 **THE COURT:** Okay. Let's bring them in, please, Pat.
03:53PM 5 Let's get the witness back, too.

03:54PM 6 (Witness and Jury seated at 3:54 p.m.)

03:54PM 7 **THE COURT:** The record will reflect that all our
03:54PM 8 jurors again are present.

03:54PM 9 I remind the witness that he's still under oath.

03:54PM 10 And you may continue, Mr. Singer.

03:54PM 11 **MR. SINGER:** Thank you, Judge.

03:54PM 12 **BY MR. SINGER:**

03:54PM 13 Q. All right. So, Mr. Casullo, I want to get into a couple
03:54PM 14 of exhibits that the government showed you.

03:54PM 15 **MR. SINGER:** So, Ms. Champoux, is it possible to
03:54PM 16 bring up Government Exhibit 26E as in echo, please.

03:54PM 17 And if we can turn to page 2. And blow up the middle
03:55PM 18 section, please.

03:55PM 19 **BY MR. SINGER:**

03:55PM 20 Q. So, you recall being asked some questions about 26C,
03:55PM 21 correct, sir?

03:55PM 22 A. Yes.

03:55PM 23 Q. And this particular part on page 2 of 26C, this is one of
03:55PM 24 the DARTS reports regarding phone numbers, correct?

03:55PM 25 A. Yes.

Q. And the particular phone number on the top left corner, that's a number that was associated with Mike Masecchia, right?

A. Yes.

Q. So this particular entry shows three different things, so I want to go through them.

So the first thing it shows, moving down from the bottom, is that that particular number was entered into DARTS -- sorry, I'm going out of order here. My apologies.

Let's start with the middle section.

So middle section indicates that the particular number up in the upper left, that was entered into the DARTS system on 3/20/2013, correct?

A. Correct.

Q. And then the second entry with regard to this number that appears in the bottom part, the 4/19/2013 entry, correct?

A. Correct.

Q. And so the difference between entry number 1 and entry number 2 is that it appears like this entry indicates that the subscriber of that number still has yet to be identified, right?

A. It just says number part of ongoing narcotics investigation in contact with that number.

Q. Okay.

A. So I don't know if he got subscriber back, or not

03:56PM 1 identified. I just know based on the remarks, it says in
03:56PM 2 contact with that number.

03:56PM 3 Q. All right. And then this particular entry for the second
03:56PM 4 entry in the bottom of 4/19/2013 entry, that indicates that
03:56PM 5 it's a number that belongs to Mike Masecchia, correct?

03:56PM 6 A. Correct.

03:56PM 7 Q. So roughly about a month later, there's a name associated
03:56PM 8 with the number?

03:57PM 9 A. That's what it looks like.

03:57PM 10 Q. And then the third entry which appears up at the top,
03:57PM 11 that's an entry that's put in associating that number with
03:57PM 12 the Ron Serio DTO?

03:57PM 13 A. Correct.

03:57PM 14 Q. So the first two entries, they involve the same case
03:57PM 15 number, correct?

03:57PM 16 A. Correct.

03:57PM 17 Q. The C2-13-0026 number?

03:57PM 18 A. Yes.

03:57PM 19 Q. And that's the Wayne Anderson file, to your
03:57PM 20 understanding, sir?

03:57PM 21 A. I don't remember exactly, but it could be.

03:57PM 22 Q. Okay. You don't have any reason to disagree with me
03:57PM 23 that's the Wayne Anderson file, right?

03:57PM 24 A. No.

03:57PM 25 Q. And then the number that appears in that third entry

1 entered an Agent Ryan, that's a different case file number,
2 correct?

3 A. That's different.

4 Q. And so that particular entry was put into DARTS
5 8/21/2018?

6 A. Correct.

7 Q. All right. So the government asked you a couple
8 questions about DARTS, and I just want to review for the jury
9 how it is all this gets in here.

10 So this first entry for 3/20/2013, there's no name
11 associated with the telephone number up at the top left yet,
12 correct?

13 A. Based on the second one and the remarks section, there's
14 no -- there's not a name associated with it based on the
15 remarks.

16 Q. But then that changes a month later like we talked about,
17 right?

18 A. Correct.

19 **MR. SINGER:** So, Ms. Champoux, can we bring down this
20 exhibit. And can we bring up Government Exhibit 100A.1,
21 please? And can we open up the file C Baker toll analysis.
22 Baker C toll analysis.

23 **THE COURT:** This is in evidence?

24 **MR. SINGER:** This is in evidence, Judge.

25 And if we can move to the next page, Ms. Champoux.

25 | Q. The number that appears in the DARTS entry, the

04:00PM 1 716-812-0664 number, that appears in this hot list?

04:00PM 2 A. Correct.

04:00PM 3 Q. And you see the dialed name entry there?

04:00PM 4 A. Correct.

04:00PM 5 Q. What does it reflect again?

04:00PM 6 A. No subscriber.

04:00PM 7 Q. And in your understanding of doing these over the course
04:00PM 8 of your 20-plus-year career, what that means is that at that
04:00PM 9 point in time when you're running the hot list, there's no
04:00PM 10 subscriber associated with that number yet, correct?

04:00PM 11 A. Yeah. Typically, yes.

04:00PM 12 Q. And that's different than line 34 here where Mark Kagan
04:00PM 13 is listed?

04:00PM 14 A. Correct.

04:00PM 15 Q. And what that means is that DEA possesses information
04:00PM 16 when they run this hot list that that number is associated
04:00PM 17 with Mark Kagan, correct?

04:00PM 18 A. It most likely means that a subpoena came back, and that
04:00PM 19 number has a subscriber to that particular person.

04:00PM 20 Q. Yeah. And that's what I'm getting at.

04:00PM 21 So to figure out the no subscribers when you got a hot
04:00PM 22 list, the next step in the process is either you or an intel
04:01PM 23 analyst sends a subpoena to the phone company to figure out
04:01PM 24 who is the subscriber to that number you don't know, right?

04:01PM 25 A. Right.

04:01PM 1 Q. So as far as DARTS is concerned, we took a look at it
04:01PM 2 just a moment ago, but on Exhibit 26E, with that particular
04:01PM 3 entry regarding the Mike Masecchia number, the first entry
04:01PM 4 doesn't indicate who that number's associated with, correct?

04:01PM 5 A. Right.

04:01PM 6 Q. All it says is that it's associated with having calls in
04:01PM 7 place with the Ron Serio number, right, the 3226 number?

04:01PM 8 A. Right.

04:01PM 9 Q. And so the next step in the process is that an intel
04:01PM 10 analyst or an agent is going to send a subpoena off to figure
04:01PM 11 out who is the subscriber to that number that we don't know
04:01PM 12 at this point?

04:01PM 13 A. That's how it should work.

04:01PM 14 Q. And so when you enter a number into DARTS, what usually
04:01PM 15 happens is you -- you subpoena that record, right?

04:01PM 16 A. You subpoena that record -- when you run a number in
04:01PM 17 DARTS, you don't have to subpoena the record, you can just
04:01PM 18 run it to see if there's an overlap. Or, you can take it one
04:02PM 19 step further and then subpoena that number.

04:02PM 20 Q. Yeah. And that looks like that's what napped that case,
04:02PM 21 right? So 26E, remember looking back at it, the 3/20/2013
04:02PM 22 entry?

04:02PM 23 A. It says no subscriber. It could, I mean, if that was
04:02PM 24 run, it could be that they just didn't get the subscriber
04:02PM 25 back from the phone company. But based on what this says

1 here, there's no information available in PenLink that lists
2 subscriber to that phone.

3 PenLink is different than DARTS. So this isn't DARTS,
4 this is PenLink, a system where you put the numbers and keep
5 track of the numbers.

6 Q. Yeah, we talked about PenLink before.

7 A. Okay. Got you.

8 Q. So when a subscriber's information is retrieved from a
9 subpoena sent to a phone company, DEA agents or analysts can
10 enter that phone number and subscriber information into
11 PenLink, right?

12 A. Yes.

13 Q. And PenLink is what essentially populates the hot list
14 with this is who this number belongs to, correct?

15 A. Yeah. Again, when they get that subpoena back, an
16 analyst should update PenLink.

17 Q. Um-hum.

18 A. Hopefully they do it quickly, so that's how it should
19 work.

20 Q. Yeah. And as far as the subpoena is concerned, so to
21 obtain a subpoena on a particular number, DARTS is used for
22 that as well, right?

23 A. Yeah. It the process is automated through DARTS.

24 Q. So when an analyst or an agent wants to figure out who a
25 subscriber to line 23 belongs to, right, they enter into

04:03PM 1 DARTS information to request a subpoena for the cell phone,
04:03PM 2 correct?

04:03PM 3 A. If they want to request a subpoena, they would do it
04:03PM 4 through DARTS. So they would put the number into DARTS, it
04:03PM 5 would show if there is or isn't a deconfliction, and then you
04:03PM 6 can take it one step further to request the subscriber
04:03PM 7 information.

04:03PM 8 **MR. SINGER:** All right. So if we can go back to
04:03PM 9 26 -- actually, why don't we -- can we close out of this one
04:03PM 10 document, Ms. Champoux?

04:03PM 11 And if we could go to a different document, 100A.1.
04:03PM 12 If we can go to the 4/19/13 subscriber list.

04:04PM 13 And if we can advance to page 2, please.

04:04PM 14 **BY MR. SINGER:**

04:04PM 15 Q. So, with regard to that 812-0664 number, do you see that,
04:04PM 16 sir?

04:04PM 17 A. Yes.

04:04PM 18 Q. It appears like there was information that was obtained
04:04PM 19 pursuant to subpoena to populate PenLink with Michael
04:04PM 20 Masecchia being the subscriber on that number, correct?

04:04PM 21 A. Correct.

04:04PM 22 Q. And that happens on 4/19 of 2013?

04:04PM 23 A. That hot list was run on 4/19/2013.

04:04PM 24 Q. All right.

04:04PM 25 **MR. SINGER:** So if we can close out of this exhibit

1 and go back to 26E, Ms. Champoux. And go back to page 2.

2 And blow up that middle section again, please.

3 **BY MR. SINGER:**

4 Q. All right. So you saw the initial hot list that was run
5 on Ron Serio's number on 3/19/2013?

6 A. Correct.

7 Q. And so it looks like what happened was that an intel
8 analyst or an agent, it looks like in this case Justin Borst,
9 intel analyst, right?

10 A. Yes.

11 Q. Entered this particular number as being associated with
12 Ron Serio's number?

13 A. In contact with that number, correct.

14 Q. And then it looks like based on as far as the subscriber
15 list, they received information regarding who owned that 0664
16 number in April of 2013, correct?

17 A. I can't remember, but --

18 Q. Well, you recall that the second document we looked at,
19 that was the information on the 4/19/2013 subscriber list,
20 right?

21 A. Yes.

22 Q. And you see the same date right here, correct?

23 A. Yep.

24 Q. And you see an association between this number up here
25 and Mike Masecchia, correct?

04:06PM 1 A. Yes.

04:06PM 2 Q. So it appears like on 4/19/2013, there was an update into
04:06PM 3 DARTS to associate that number with Mike Masecchia, correct?

04:06PM 4 A. Correct.

04:06PM 5 Q. And that's how this information gets into the system in
04:06PM 6 DARTS, correct?

04:06PM 7 A. That's how it gets into DARTS, correct.

04:06PM 8 Q. Like, you as an agent don't just go up to a computer and
04:06PM 9 type in this number belongs to Mike Masecchia, right? It
04:06PM 10 doesn't work that way, right?

04:06PM 11 A. What do you mean?

04:06PM 12 Q. So when you want to get a number associated with someone
04:06PM 13 in DARTS that you don't know, you have to subpoena
04:06PM 14 information, correct?

04:06PM 15 A. That's the first thing you should do is a subpoena. But
04:06PM 16 you also have to take into consideration that a lot of -- in
04:06PM 17 my experience, a lot of times subscriber will come back to a
04:06PM 18 fictitious name, or someone that doesn't use the phone. It
04:06PM 19 could be a girlfriend, it could be just a bogus name. Which
04:06PM 20 I've had that experience, too. Where someone lists Tony
04:07PM 21 Stark, who's a character from a movie. That was very
04:07PM 22 frequent out in Las Vegas.

04:07PM 23 So subscriber isn't like an end-all be-all.

04:07PM 24 Actually, when I was out in Las Vegas, it was more often
04:07PM 25 than not that when subscriber came back on the targets we

04:07PM 1 were looking at, it wasn't the real name of the target. So
04:07PM 2 what would you do to further that to try to identify the
04:07PM 3 phone --

04:07PM 4 Q. You'd do a little more investigation, right, sir?

04:07PM 5 A. You use CHARMS, you run it through CHARMS and local/
04:07PM 6 county systems to see if there's a police report tied to that
04:07PM 7 number. So if you identified the number that way, you could
04:07PM 8 put it into DARTS in the remarks section based on that
04:07PM 9 information. You wouldn't be specific in the remarks and say
04:07PM 10 that, you would put it how it was put here. Number belonging
04:07PM 11 to.

04:07PM 12 So, it wasn't from the subpoena, it was from however else
04:07PM 13 you identify it. So that was my point.

04:07PM 14 Q. Yeah. So it's subscriber information is one part of the
04:07PM 15 process, right?

04:07PM 16 A. It could be.

04:07PM 17 Q. Further investigation is another part of the process?

04:07PM 18 A. Could be.

04:07PM 19 Q. And when you're confident that that number is associated
04:07PM 20 with somebody else, you update the system accordingly, right?

04:07PM 21 A. You should.

04:08PM 22 Q. But it's not a situation where somebody just types a
04:08PM 23 number into DARTS, gives it a name, and that's it, right?

04:08PM 24 A. No, you should have information on why you're saying it
04:08PM 25 belongs to a specific person. If you don't -- even if you

04:08PM 1 don't put why in the remarks section, you need to have a
04:08PM 2 reason why. You just can't put any random name.

04:08PM 3 Q. So as far as this particular entry, so we know the 2013
04:08PM 4 entry, right?

04:08PM 5 A. 2013, correct.

04:08PM 6 Q. But then there's the other entry that occurs in August of
04:08PM 7 2018, correct?

04:08PM 8 A. That is correct.

04:08PM 9 Q. And that particular entry is put into the system by
04:08PM 10 Curtis Ryan; is that right?

04:08PM 11 A. That is correct.

04:08PM 12 Q. Curtis Ryan, at that point in time, he's a task force
04:08PM 13 officer at the DEA working in D-58, correct?

04:08PM 14 A. He was assigned to that group, and still using the system
04:08PM 15 as that. There was a time where he left because of this full
04:08PM 16 investigation, and I don't remember when. But according to
04:08PM 17 this --

04:08PM 18 Q. Is the answer yes?

04:08PM 19 A. Yes.

04:08PM 20 Q. Okay. And you were in D-58 at that point in time,
04:08PM 21 correct?

04:09PM 22 A. I was still in D-58, correct.

04:09PM 23 Q. All right. So based on the fact that Ryan enters this
04:09PM 24 number into the DARTS system on 8/21/2018, kind of like we
04:09PM 25 talked about before, because Mr. Bongiovanni's associated

1 with that number in other contexts, he's gonna get an alert,
2 right?

3 A. Yes.

4 **MR. SINGER:** So if we could un-expand out of that,
5 Ms. Champoux, And go back to the first page.

6 If we can just blow up this one particular section
7 right here.

8 **BY MR. SINGER:**

9 Q. So, that's why he shows up as one of the two people in
10 this email, correct?

11 A. So in this email, it looks like -- from looking at this,
12 Curtis runs the number, but the deconfliction goes to those
13 listed people.

14 Q. Correct. And Joe Bongiovanni is one of those people?

15 A. Correct.

16 Q. So this would have alerted Mr. Bongiovanni that Curtis
17 Ryan was investigating Mike Masecchia in some capacity --

18 A. It would have.

19 Q. -- back in August of 2018, correct?

20 A. It would have alerted him based on the deconfliction that
21 Curtis Ryan was investigating that number, because he doesn't
22 put it in his comments who it belongs to.

23 But it -- when you read the comments, it just says
24 whatever's said, a general statement about being part of the
25 Serio investigation. He doesn't mention specifically who

that phone belongs to.

MR. SINGER: And if you can un-expand out of that, Ms. Champoux.

BY MR. SINGER:

Q. And we talked about this on direct, but you noted how Mr. Bongiovanni forwards this particular message to Greg Yensan; is that right?

A. That's what it looks like.

Q. And Greg Yensan at that time, he's the G.S., so he's the group supervisor for D-57?

A. 57.

Q. He as your old boss, right?

A. My old boss.

Q. And he's Mr. Bongiovanni's current boss?

A. Yes.

Q. So he obviously had awareness of this, because he forwards it off to his boss the same day, correct?

A. He forwarded it to him.

MR. SINGER: Can you bring that exhibit down, Ms. Champoux, and can you bring up Exhibit 26D as in dog.

All right. So this is another exhibit that the government asked you about.

Ms. Champoux, can we scroll in between pages 3 and 4?

BY MR. SINGER:

Q. All right. So we were talking about this one particular

04:11PM 1 entry right here; do you remember that?

04:11PM 2 A. Yes.

04:11PM 3 Q. And that was the number up there that 866-2687 number

04:11PM 4 that was associated with Hot Dog, correct?

04:11PM 5 A. Again, I can't remember specifically. I have no reason

04:11PM 6 to doubt you that's Hot Dog's number.

04:11PM 7 Q. All right. So it looks like -- kind of going. Through

04:11PM 8 the entries here, this number for Hot Dog is entered into

04:11PM 9 DARTS on 3/20/2013.

04:12PM 10 A. Correct.

04:12PM 11 **MR. SINGER:** Ms. Champoux, can we close out of this
04:12PM 12 exhibit and go back to 100A.1.

04:12PM 13 And can we open up the C Baker phone analysis. I
04:12PM 14 think it's still in the PDF. All right. Perfect.

04:12PM 15 And if we can go to line -- can we go to page 3,
04:12PM 16 again? Looks like we're there. Thank you very much.

04:12PM 17 **BY MR. SINGER:**

04:12PM 18 Q. So I direct your attention to line 38, sir.

04:12PM 19 A. Yes.

04:12PM 20 Q. That number that we're dealing with in the DARTS entry,
04:12PM 21 that appears on this hot list, correct?

04:12PM 22 A. Correct.

04:12PM 23 Q. And that's that 3/19/2013 date that we were talking about
04:12PM 24 previously with Mike Masecchia's cell number?

04:12PM 25 A. Correct.

04:12PM 1 Q. So, once again, it indicates that there's no subscriber
04:12PM 2 information for that number on 3/19/2013, correct?

04:12PM 3 A. According to this document, no.

04:12PM 4 Q. So it appears like that particular number doesn't have a
04:13PM 5 subscriber associated with it in PenLink at that time the
04:13PM 6 report is run, correct?

04:13PM 7 A. That's what it looks like.

04:13PM 8 Q. So the natural thing that would happen would be that to
04:13PM 9 enter that number into PenLink or to figure out who it's
04:13PM 10 from, there would a subpoena sent to the cell phone company,
04:13PM 11 correct?

04:13PM 12 A. You should send a subpoena out and like -- that would be
04:13PM 13 the first step typically.

04:13PM 14 Q. And that's something that enters the number into DARTS,
04:13PM 15 correct?

04:13PM 16 A. When you request a subpoena, you have to do that through
04:13PM 17 DARTS, correct.

04:13PM 18 **MR. SINGER:** All right. So, Ms. Champoux, can we go
04:13PM 19 back to 26D, please?

04:13PM 20 And if we could go down to page 5, please.

04:13PM 21 **BY MR. SINGER:**

04:13PM 22 Q. So, we saw where that number was entered back in 2013.
04:13PM 23 Now I want to direct your attention down to a different
04:14PM 24 entry. Do you see the one down at the bottom?

04:14PM 25 A. I do.

04:14PM 1 **MR. SINGER:** Ms. Champoux, is it possible to blow
04:14PM 2 that up for everybody?

04:14PM 3 **BY MR. SINGER:**

04:14PM 4 Q. So, this particular entry doesn't say DARTS, it says
04:14PM 5 DICE. So, I think we had some testimony about DICE, but just
04:14PM 6 to kind of review what it is. So DICE is a different version
04:14PM 7 of DARTS, for lack of a better word?

04:14PM 8 A. It's the acronym that's used for agencies outside of DEA,
04:14PM 9 it's essentially the same system.

04:14PM 10 Q. Yeah. So DEA has a telephone number deconfliction system
04:14PM 11 named DARTS, right?

04:14PM 12 A. Correct.

04:14PM 13 Q. And other federal agencies other than DEA have the same
04:14PM 14 system, but it's named DICE?

04:14PM 15 A. Pretty much.

04:14PM 16 Q. And what you said was that DICE and DARTS interact,
04:14PM 17 right?

04:14PM 18 A. They do. I don't know if they interact from a technical
04:14PM 19 perspective, but they're essentially the same system.

04:14PM 20 Q. Yeah. The systems speak to each other, is what I'm
04:15PM 21 getting at.

04:15PM 22 A. Okay.

04:15PM 23 Q. The only difference is is that if you run a number in
04:15PM 24 DARTS you can get back information about the number and the
04:15PM 25 request and who the agents associated with the number is,

04:15PM 1 you're just not gonna get back the remarks, correct?

04:15PM 2 A. If it's outside DEA, correct?

04:15PM 3 Q. Okay. So for this particular number, this 561-801-0221

04:15PM 4 number, we talked about Tom Serio in your direct testimony;

04:15PM 5 do you remember that?

04:15PM 6 A. We did.

04:15PM 7 Q. And there were two different numbers associated with Tom

04:15PM 8 Serio, correct?

04:15PM 9 A. To the best of my recollection.

04:15PM 10 Q. And this is one of the cell numbers associated with Tom

04:15PM 11 Serio, right?

04:15PM 12 A. Again, I don't remember the specific numbers. I don't

04:15PM 13 doubt you.

04:15PM 14 Q. Understand. So as far as this number is concerned, it

04:15PM 15 looks like there were two other entries entered into DICE,

04:15PM 16 correct?

04:15PM 17 A. There were two, yes.

04:15PM 18 Q. And so as far as the entries are concerned, it looks like

04:15PM 19 the first one happens on October 14th of 2015?

04:15PM 20 A. Yes.

04:16PM 21 Q. And it looks like the agent associated with that entry is

04:16PM 22 Charles Tolias?

04:16PM 23 A. Charles Tolias.

04:16PM 24 Q. And it looks like he works for the Department of Homeland

04:16PM 25 Security?

04:16PM 1 A. That's what it looks like.

04:16PM 2 Q. And so that entry was put in place at that point in time,
04:16PM 3 and the way the system works is that if he enters this
04:16PM 4 number, based on the fact that it's associated in some way
04:16PM 5 with other investigations, Joe Bongiovanni would get alerted
04:16PM 6 of that, correct?

04:16PM 7 A. If he had put this number in. If this -- if he had put
04:16PM 8 in number in previously, then he would get an alert.

04:16PM 9 Q. Okay. It looks like there's a second entry that
04:16PM 10 Mr. Tolias puts into it that occurs on February 2nd of 2017,
04:16PM 11 correct?

04:16PM 12 A. Correct.

04:16PM 13 Q. And that would occurred -- that would have caused another
04:16PM 14 alert to be sent to Agent Bongiovanni, correct?

04:16PM 15 A. Again, if he had put that number in previously, that's
04:16PM 16 how it should work.

04:16PM 17 Q. All right. And so this one particular date that we're
04:16PM 18 talking about here, that is roughly about two months before
04:16PM 19 Ron Serio was arrested, correct?

04:16PM 20 A. I don't remember. I don't doubt you.

04:17PM 21 Q. Yeah. You don't have any reason to disagree that Ron
04:17PM 22 Serio was arrested in April of 2017?

04:17PM 23 A. No.

04:17PM 24 Q. Okay.

04:17PM 25 **MR. SINGER:** Ms. Champoux, if we can un-expand out of

that, and if we move back to page 3 and 4 please, split.

Thank you.

BY MR. SINGER:

Q. So getting back to this one number involving Hot Dog.

So it looks like on 1/7 of 2019, you enter in Hot Dog's number into DARTS, correct?

A. So, yes.

Q. And what you note in your notes about that phone number is that you believe that that phone number is associated with a person you're investigating at the time, Michael Sinatra; is that correct?

A. So, right. So I ran it on two separate occasions. The first time I ran it, I just had it as a phone number in contact with Michael Sinatra. Correct.

Q. Correct.

A. Correct.

Q. And this is an alert that Mr. Bongiovanni would have received, correct?

A. Again, I'd have to see the email distribution. If he put that number in prior, then he should.

Q. Well, you'd agree me that it was --

A. Oh, sorry, I didn't see that.

Q. No problem.

A. Yes.

Q. So he would have received an alert, correct?

04:18PM 1 A. Yes.

04:18PM 2 Q. And this occurs roughly a month before Mr. Bongiovanni
04:18PM 3 retires from the DEA?

04:18PM 4 A. So I put it in January of 2019. I don't remember when he
04:18PM 5 retired.

04:18PM 6 Q. Is there any reason to disagree --

04:18PM 7 A. No.

04:18PM 8 Q. -- that he retired on February 1st 2019?

04:18PM 9 A. No.

04:18PM 10 Q. That's about a month or so before, correct?

04:18PM 11 A. Correct.

04:18PM 12 **MR. SINGER:** If we can bring up Government Exhibit

04:18PM 13 26M as in Mike, Ms. Champoux. If we can go to page 2.

04:18PM 14 **BY MR. SINGER:**

04:18PM 15 Q. This one particular number right here, do you see that,
04:18PM 16 sir?

04:18PM 17 A. Yes.

04:18PM 18 Q. So it looks like the initial entry of this number occurs
04:19PM 19 on 3/20/2013?

04:19PM 20 A. Correct.

04:19PM 21 Q. And that was associated with Ron Serio's number --

04:19PM 22 A. Yes, sir.

04:19PM 23 Q. -- in the Ron Serio investigation?

04:19PM 24 A. Yes.

04:19PM 25 Q. It appears like you also entered that number into the

1 system in 2019, January 15th of 2019 to be more exact?

2 A. Correct.

3 Q. And so based on the fact that the same number is entered,
4 and Mr. Bongiovanni has entered that number before, he's
5 going to receive an alert on that, correct?

6 A. Correct.

7 Q. This person, if you recall, associated with this number
8 up here -- I have a lot of circles going on here, so let me
9 clear it out for a second.

10 This number up here was associated with a person named
11 Dennis Tripi; do you remember that?

12 A. I remember Dennis Tripi, but I don't know if that's his
13 number.

14 From my comments, it just says numbers in contact with
15 Dennis Tripi. So it looks like from this DARTS request, that
16 number was a number in contact with Dennis Tripi.

17 Q. Okay. Yeah, I think I got that wrong, so my apologies.

18 This number up here is associated with calling a number
19 that Dennis Tripi uses, correct?

20 A. Yes. That's a number that's in contact with Dennis
21 Tripi.

22 Q. Dennis Tripi, he's someone, based on your law enforcement
23 experience, that is a cousin with a person by the name of
24 Frank Tripi?

25 A. From my investigation, yes.

Q. And Frank Tripi, he's somebody who has been alleged to have nexuses with drug trafficking?

A. Correct.

Q. He's also someone who is alleged to have some type of nexus to Italian Organized Crime up here in Buffalo?

A. Correct.

Q. And in Bongiovanni receives this particular notification two weeks about before his retirement?

A. Correct.

MR. SINGER: If we can bring down this exhibit, Ms. Champoux, and go to Exhibit 26B.

And if we can advance to page 2, please.

If we can expand up on the top part, Ms. Champoux.

BY MR. SINGER:

Q. And so on this particular entry, same kind of thing.

Looks like 3/20/2013 is when this one number goes into the DARTS system for the first time?

A. Correct.

Q. And that's associated with the Ron Serio investigation?

A. Correct.

Q. Based on --

A. I'm sorry. Let me look at that number part of --

Again, I don't remember the file titles for those specific cases. C2-13-0026, if that's Serio or Wayne Anderson, and it doesn't say in the remarks. So I don't know

04:21PM 1 which case that relates to.

04:21PM 2 Q. No, I got you. But you do recall that that's Tom Serio's

04:21PM 3 other cell phone number? Like, we looked at the other 561

04:22PM 4 number, but this is the other one?

04:22PM 5 A. It could be, I'm sorry, I just don't remember all of the

04:22PM 6 different numbers, who they belong to.

04:22PM 7 Q. No reason to disagree with me, though, right?

04:22PM 8 A. No.

04:22PM 9 Q. Okay. So, during your time, it looked like you ran this
04:22PM 10 particular number up here in the top left?

04:22PM 11 A. Correct.

04:22PM 12 Q. You also did a hot list on that, correct?

04:22PM 13 A. I may have. I don't know. You could show me the hot
04:22PM 14 list, I don't know if I did a hot list or not.

04:22PM 15 Q. No problem. But at any rate, that number up in the top
04:22PM 16 left you found to be associated and in contact with Anthony
04:22PM 17 Gerace, correct?

04:22PM 18 A. Based on my remarks in the remarks section. So that
04:22PM 19 number is in contact with Anthony Gerace.

04:22PM 20 Q. And so this is an alert that Mr. Bongiovanni would
04:22PM 21 receive based on the fact that there's a match between the
04:22PM 22 numbers?

04:22PM 23 A. Yes.

04:22PM 24 **MR. SINGER:** If we could un-expand out of that,
04:22PM 25 Ms. Champoux.

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- 1 A. Correct.
- 2 Q. You were alone?
- 3 A. I was alone.
- 4 Q. And then Mr. Bongiovanni walks up to the desk?
- 5 A. He did.
- 6 Q. And that's where you state that he makes these comments
- 7 in a sarcastic tone; is that right?
- 8 A. He did. About, you better hurry up and investigate him
- 9 before -- you better hurry up and arrest him before they make
- 10 marijuana legal, is what he said. Towards the end.
- 11 Q. And so that was the conversation that made you squirm,
- 12 right?
- 13 A. I was very uncomfortable when he came over to my desk at
- 14 that point.
- 15 Q. So this, based on the DARTS entries, appears to have
- 16 occurred on or about August 2nd of 2018, right?
- 17 A. I that was the date.
- 18 Q. So same day you believe it was?
- 19 A. Yeah, it was definitely within that timeframe. Either on
- 20 that day, or shortly thereafter.
- 21 Q. All right. So based on your direct testimony, that
- 22 encounter occurs after the Ron Serio proffer, correct?
- 23 A. I don't remember the exact date, but I think it was July
- 24 of '18.
- 25 Q. Yeah, July 20th of 2018?

04:24PM 1 A. So it would have happened afterwards.

04:25PM 2 Q. It also happened after the meeting you had at the U.S.

04:25PM 3 Attorney's Office on August 1st of 2018?

04:25PM 4 A. If that was the date, I believe it was after that

04:25PM 5 meeting.

04:25PM 6 Q. Yeah, remember --

04:25PM 7 A. Yes.

04:25PM 8 Q. -- before we started today, I gave you the document to

04:25PM 9 help refresh your memory that it was on August 1st, 2018,

04:25PM 10 that you met with the U.S. Attorney's Office?

04:25PM 11 A. Based on that document, yes.

04:25PM 12 Q. And that's when you made the allegations regarding the

04:25PM 13 racial comments?

04:25PM 14 A. Yes.

04:25PM 15 Q. That's where you made the allegations regarding the

04:25PM 16 stripper overdosing, correct?

04:25PM 17 A. Yes.

04:25PM 18 Q. That's where you presented the document, the 30A

04:25PM 19 document, to the U.S. Attorney's Office, right?

04:25PM 20 A. No, I sent that over before that.

04:25PM 21 Q. Sent it before?

04:25PM 22 A. Yep.

04:25PM 23 Q. Okay. So all those things happened before this

04:25PM 24 conversation between you and Bongiovanni about this DARTS

04:25PM 25 entry --

04:25PM 1 A. Yes, sir.

04:25PM 2 Q. -- on Anthony Gerace?

04:25PM 3 A. Yes.

04:25PM 4 Q. And you believed him to be potentially guilty of federal
04:25PM 5 crimes at that point in time, right?

04:25PM 6 **MR. COOPER:** Objection. I just don't know who the
04:25PM 7 "he" is in the question.

04:25PM 8 **BY MR. SINGER:**

04:25PM 9 Q. Sure. So you suspected Agent Bongiovanni of being guilty
04:26PM 10 of maybe taking bribes from Ron Serio at that point in time?

04:26PM 11 **MR. COOPER:** Objection. Objection.

04:26PM 12 **THE COURT:** Hold on.

04:26PM 13 **MR. COOPER:** I'd ask to approach to explain my
04:26PM 14 objection.

04:26PM 15 **THE COURT:** Come on up.

04:26PM 16 (Sidebar discussion held on the record.)

04:26PM 17 **MR. COOPER:** I'm not sure what answer is going to
04:26PM 18 come out, because I don't think this was covered last time.
04:26PM 19 But what I'm concerned about coming out is this witness's
04:26PM 20 opinion. The way the question was phrased is you thought he
04:26PM 21 was guilty of federal crimes at that point.

04:26PM 22 I don't think this witness offering an opinion about
04:26PM 23 that is the way trials are supposed to work. The jury is
04:26PM 24 going to decide whether the defendant is guilty of federal
04:26PM 25 crimes. So I'm uncomfortable with --

04:26PM 1 **MR. SINGER:** So I changed the question up to you
04:26PM 2 suspected him of committing a federal crime or taking bribes.

04:26PM 3 **THE COURT:** Okay.

04:26PM 4 **MR. SINGER:** So, like, I'm just trying to establish
04:26PM 5 that's what was in his frame of reference or his state of mind
04:26PM 6 at the time that this conversation occurs.

04:26PM 7 **THE COURT:** Okay. You don't have an objection to
04:27PM 8 that.

04:27PM 9 **MR. COOPER:** No, I want to be -- protect the record
04:27PM 10 and be cautious that the witness shouldn't offer an opinion
04:27PM 11 about his --

04:27PM 12 **MR. SINGER:** Yeah.

04:27PM 13 **MR. COOPER:** Thank you.

04:27PM 14 **THE COURT:** Ask another question.

04:27PM 15 (Sidebar discussion ended.)

04:27PM 16 **THE COURT:** The objection is withdrawn. The question
04:27PM 17 is withdrawn.

04:27PM 18 Mr. Singer will ask another question.

04:27PM 19 **BY MR. SINGER:**

04:27PM 20 Q. So, at -- at the time that you had this conversation
04:27PM 21 regarding Anthony Gerace, you suspected that Joe Bongiovanni
04:27PM 22 may have engaged in misconduct vis-à-vis Ron Serio, right?

04:27PM 23 A. Correct.

04:27PM 24 Q. And he makes this comment to you about Anthony Gerace in
04:27PM 25 a sarcastic tone of you better hurry up on your

04:27PM 1 investigation, right, sir?

04:27PM 2 A. Better hurry up and arrest him before they make marijuana

04:27PM 3 legal.

04:27PM 4 Q. And you also stated on direct that he provided

04:27PM 5 information about, hey, this is where Anthony Gerace gets

04:27PM 6 marijuana shipments, right?

04:27PM 7 A. Yes.

04:27PM 8 Q. Or that he deals cocaine to his friends, correct?

04:27PM 9 A. Yes.

04:27PM 10 Q. But you didn't put that into a DEA-6?

04:27PM 11 A. I didn't put any of that in a DEA-6. I think I put it in

04:27PM 12 an email to myself, but never in a 6.

04:27PM 13 Q. So you didn't report that conversation to anybody who was

04:28PM 14 investigating --

04:28PM 15 A. I believe from what I remember, I spoke to Curtis Ryan

04:28PM 16 about that.

04:28PM 17 Q. Okay. Did he write a DEA-6 about it?

04:28PM 18 A. I have no idea.

04:28PM 19 Q. No idea?

04:28PM 20 A. I don't know if he wrote a DEA-6. He may have been

04:28PM 21 writing reports regarding this investigation at this point

04:28PM 22 after the Serio proffer in his HSI case management system,

04:28PM 23 because of what was said about Bongiovanni passing names in

04:28PM 24 that proffer.

04:28PM 25 Q. And you didn't go to your G.S., Jim McHugh, and make an

1 allegation about, oh, my God, this just happened. Can you
2 believe this, Jim?

3 A. I didn't go to Jim McHugh, I sent an email to myself.

4 **MR. SINGER:** Ms. Champoux, can you bring up
5 Government Exhibit 26C, please.

6 All right. So, if we can expand in on this first
7 entry, Ms. Champoux, please?

8 Thank you.

9 **BY MR. SINGER:**

10 Q. All right. So, this is that 578-5296 number that we were
11 talking about previously, correct?

12 A. Okay.

13 Q. That's the one associated with Tom Serio, that's the
14 other cell phone number, correct?

15 A. I believe you.

16 Q. It states it right down there, correct?

17 A. Correct.

18 Q. So it looks like this number first went into the system
19 on 3/12/2013?

20 A. Based on what I'm looking at here, yes.

21 Q. Oh, sorry. You know what? I think both of us are wrong.
22 My apologies.

23 A. Are there more?

24 Q. Let's look at this middle section first.

25 7/6/2012, do you see that date, sir?

04:30PM 1 A. Yes.

04:30PM 2 Q. It appears that was the first time this particular number
04:30PM 3 was entered into the DARTS system?

04:30PM 4 A. Correct.

04:30PM 5 Q. And it appears like at that point in time, it was
04:30PM 6 indicating that it was part of an ongoing narcotics
04:30PM 7 operation, correct?

04:30PM 8 A. Correct.

04:30PM 9 Q. And it looks like the number at that point in time still
04:30PM 10 had not been positively identified as Tom Serio's?

04:30PM 11 A. Just says possibly belonging to Tom Serio per --

04:30PM 12 Q. And in your experience, that -- when it's not definitive
04:30PM 13 who was the subscriber to that particular number, someone's
04:30PM 14 going to put in a clarifier in there, correct?

04:30PM 15 A. I'm sorry, sir, what's your question?

04:30PM 16 Q. Yeah, I'm sorry, we had some coughing going on in the
04:30PM 17 background.

04:30PM 18 So when someone enters into DARTS and they're not
04:30PM 19 100 percent positive who the subscriber to the number is,
04:30PM 20 they'll put in a little bit of a clarifier, like a possibly
04:30PM 21 belonging to?

04:30PM 22 A. Knowing Shane Nastoff, he was very specific about what he
04:30PM 23 wrote at times. For whatever the reason was, he wrote
04:30PM 24 possibly belonging to. I don't know what the facts were at
04:31PM 25 the time.

04:31PM 1 Q. Yeah, you weren't at the office back in 2012, right, sir?

04:31PM 2 A. No. No. I would put it either belongs to, or it

04:31PM 3 doesn't.

04:31PM 4 Q. Okay. That's what you do, but this is the way it reads,

04:31PM 5 right, sir?

04:31PM 6 A. It is the way it reads.

04:31PM 7 Q. And it appears like this particular number eventually is

04:31PM 8 identify as belonging to Tom Serio, correct?

04:31PM 9 A. That is correct.

04:31PM 10 Q. And the first person to start investigating this was

04:31PM 11 Shane Nastoff back in July of 2012, correct?

04:31PM 12 A. That's what it looks like.

04:31PM 13 Q. And the number comes up again for the second time on the

04:31PM 14 bottom entry, correct?

04:31PM 15 A. It does.

04:31PM 16 Q. That's entered into the DARTS system on 3/12/2013?

04:31PM 17 A. Correct.

04:31PM 18 Q. And it's a different case number, correct?

04:31PM 19 A. Correct.

04:31PM 20 Q. This particular case number is associated with Wayne

04:31PM 21 Anderson, correct?

04:31PM 22 A. I just can't remember the cases who they belong to, so

04:31PM 23 it's either Wayne Anderson or Serio, I believe. One or the

04:31PM 24 other. If you say it's Wayne Anderson, I believe you.

04:31PM 25 Q. Okay. And this particular number is different, correct?

04:31PM 1 A. It is.

04:31PM 2 Q. And so the third entry in the system appears up at the
04:32PM 3 top, correct?

04:32PM 4 A. Third, at the top. Correct.

04:32PM 5 Q. And that particular entry is entered by you, correct?

04:32PM 6 A. That is correct.

04:32PM 7 Q. That entry occurs on 8/2/2018, correct?

04:32PM 8 A. Correct.

04:32PM 9 Q. So, the same date that you ran the Anthony Gerace number
04:32PM 10 or association, I should say? I'm sorry.

04:32PM 11 A. It was the same hot list, I believe. I just changed the
04:32PM 12 remarks.

04:32PM 13 Q. All right. You indicated that that number is part of an
04:32PM 14 ongoing marijuana investigation that you were in charge of?

04:32PM 15 A. I did that for a specific reason, different than the
04:32PM 16 first time I ran the first batch, when I said it was specific
04:32PM 17 to Anthony Gerace.

04:32PM 18 Q. And this particular entry indicates that you ran that
04:32PM 19 under a different case number, correct?

04:32PM 20 A. I can't remember what I ran it under with the other case.

04:32PM 21 Q. Okay. But I'm referring to this particular document
04:32PM 22 right here, sir.

04:32PM 23 A. Oh, this case is different than the other two, correct.

04:32PM 24 Q. Yeah. And this was a number that Joe Bongiovanni would
04:32PM 25 have received an alert on based on the overlap, correct?

04:32PM 1 A. Correct.

04:33PM 2 **MR. SINGER:** If we can un-expand out of this,

04:33PM 3 Ms. Champoux. And if we go to the second page of the

04:33PM 4 document. Pause right there. If question blow up this one

04:33PM 5 section here.

04:33PM 6 **BY MR. SINGER:**

04:33PM 7 Q. So, similarly looking at in other government exhibits,

04:33PM 8 this is the Tom Serio cell number we're talking about, right?

04:33PM 9 A. If you say it's his number, I believe you.

04:33PM 10 Q. Yeah. And it looks like Charles Toliias, he's the HSI

04:33PM 11 officer, correct?

04:33PM 12 A. Yes, someone in DHS I'm guessing, with HSI.

04:33PM 13 Q. And he runs a request in the DICE system for this number
04:33PM 14 on 10/14/2015?

04:33PM 15 A. Correct.

04:33PM 16 Q. And given the overlap, this is a notification that would
04:33PM 17 have been received by Joe Bongiovanni, correct?

04:33PM 18 A. If he had entered it previously.

04:34PM 19 **MR. SINGER:** Yeah. And if we can un-expand out of
04:34PM 20 that, Ms. Champoux. And just move up to the first page again.

04:34PM 21 **BY MR. SINGER:**

04:34PM 22 Q. And he entered it previously, correct?

04:34PM 23 A. Correct.

04:34PM 24 Q. So he would have received a notification, correct?

04:34PM 25 A. Yes.

04:34PM 1 Q. So, at the time you would have -- I'm sorry, Joe

04:34PM 2 Bongiovanni would have received information that you were

04:34PM 3 investigating Tom Serio?

04:34PM 4 A. When I ran it in August of '18, he would have received an

04:34PM 5 alert.

04:34PM 6 **MR. SINGER:** All right. You can take that down,

04:34PM 7 Ms. Champoux. Thank you.

04:34PM 8 **BY MR. SINGER:**

04:34PM 9 Q. So the government also asked you about a 2016 meeting

04:34PM 10 that you had with Tom Mozg; do you remember that?

04:34PM 11 A. Yes.

04:34PM 12 Q. So this was a meeting that Mr. Mozg reached out to you

04:34PM 13 regarding a target of his investigation, correct?

04:34PM 14 A. He did. Well, he didn't -- I don't -- he didn't reach

04:34PM 15 out to me initially. I believe he -- either he or his

04:35PM 16 analyst reached out to our analyst, Steve Bevilacqua. And

04:35PM 17 then Steve reached out to me.

04:35PM 18 Q. Okay. So someone from Customs and Border Protection

04:35PM 19 reached out to someone at DEA --

04:35PM 20 A. Yeah.

04:35PM 21 Q. -- possibly the intel analyst?

04:35PM 22 A. Either Tom or his analyst reached out to Steve

04:35PM 23 Bevilacqua.

04:35PM 24 Q. Okay. And then the intel analyst that worked at DEA,

04:35PM 25 Steve Bevilacqua, Bevo I think we've heard him referred to,

04:35PM 1 yes?

04:35PM 2 A. Bevo, yes.

04:35PM 3 Q. Bevo reaches out to you saying, hey, I got a call from
04:35PM 4 guys over at CBP, and they want to talk to you about Joe
04:35PM 5 Bella?

04:35PM 6 A. Yeah, it wasn't to me. Like, they were asking for me.

04:35PM 7 For some reason, Steve reached out to me either because of
04:35PM 8 something he thought I was working on before. It was kind of
04:35PM 9 generally, hey, would you be willing to talk to Tom about
04:35PM 10 this? I was like, yeah, sure.

04:35PM 11 Q. Okay. And so a meeting is arranged at the DEA office to
04:35PM 12 meet up with Tom, correct?

04:35PM 13 A. It was.

04:35PM 14 Q. And you recall that Bongiovanni wasn't present for the
04:36PM 15 first part of the meeting, at some point in time Joe
04:36PM 16 Bongiovanni walks into the meeting?

04:36PM 17 A. Shortly -- yeah, it wasn't long after the meeting
04:36PM 18 started.

04:36PM 19 Q. And both of you, you're working in D-57 at the time,
04:36PM 20 correct?

04:36PM 21 A. Yeah, what was the date again?

04:36PM 22 Q. 2016 is the best, I think, that we've heard?

04:36PM 23 A. 2016. In summer of 2016, was it, the meeting with Tom?

04:36PM 24 Q. I'm asking you. What do you recall?

04:36PM 25 A. It was when I was still in D-57.

04:36PM 1 Q. Okay. You recall that.

04:36PM 2 A. And it's -- it's very possible that it would have been
04:36PM 3 summer of '16.

04:36PM 4 Q. All right. And you remember that at that time that you
04:36PM 5 had the meeting with Tom Mozg, you and Mr. Bongiovanni -- you
04:36PM 6 were still working together?

04:36PM 7 A. Yeah, we were still talking.

04:36PM 8 Q. Okay. And so at this particular meeting, you recall that
04:36PM 9 Mr. Mozg presents you with some information that he has as
04:36PM 10 far as intelligence?

04:36PM 11 A. Yes. I believe he had a chart.

04:36PM 12 Q. So some type of chart that he presents you showing
04:36PM 13 connections between certain people?

04:36PM 14 A. Correct.

04:37PM 15 Q. And at the meeting, you're conversing back with Tom Mozg;
04:37PM 16 is that right?

04:37PM 17 A. Yeah, we were conversing. Tom did the presentation, and
04:37PM 18 I listened.

04:37PM 19 Q. Okay. Joe Bongiovanni, he's listening to the same
04:37PM 20 presentation?

04:37PM 21 A. Correct. After he came in, correct.

04:37PM 22 Q. And there's nothing that you recall that was out of the
04:37PM 23 ordinary at this meeting, right?

04:37PM 24 A. To me, there was nothing out of the ordinary.

04:37PM 25 Q. And at the end of the meeting, you and Joe make the

collective decision of great information, but not something we can use at this time, correct?

MR. COOPER: Object to the form of the question.

THE COURT: Overruled.

MR. COOPER: It's calling for hearsay on behalf of his client, Judge.

MR. SINGER: I'm not calling for any hearsay, Judge.

THE COURT: No, overruled. Overruled.

THE WITNESS: I'm sorry, could you ask it --

BY MR. SINGER:

Q. Certainly. At the end of the meeting, you and Joe come to the collective conclusion of this is nice information, but it's not something we can use?

A. Joe and I had a conversation after Tom left that unless there was an informant involved, or they were up on a wire, that there really wasn't a lot that we could do with it at that point. We were in agreement that it was good intelligence, but we wanted something more proactive to go on. And we had just finished a wire, we were still busy with different things.

Q. Yeah, so that particular wire, I'm going to ask you a few questions and we're gonna pause on that for a second. So that wire involved a target of investigations named Ramos-Ramos?

A. The file title for that was Jonathan Ramos-Ramos.

04:38PM 1 Q. Okay. That Ramos-Ramos, that was a wire that took a
04:38PM 2 significant amount of work; is that right?

04:38PM 3 A. I believe it was maybe six, eight months.

04:38PM 4 Q. That's something that you and Joe Bongiovanni worked on
04:38PM 5 hand in hand?

04:38PM 6 A. We were partners on that case.

04:38PM 7 Q. And right when this meeting was occurring, that
04:38PM 8 investigation had not officially concluded, but it was on the
04:38PM 9 tail end of it?

04:38PM 10 A. When, the meeting with Tom?

04:38PM 11 Q. Um-hum?

04:38PM 12 A. I can't remember. I think it was like shortly after we
04:38PM 13 did our takedowns. It was towards the tail end of it.

04:38PM 14 Q. And when you complete an operation that large, there's a
04:39PM 15 lot of paperwork associated with that?

04:39PM 16 A. There is.

04:39PM 17 Q. So there's a lot of things to do on the back end of the
04:39PM 18 investigation, correct?

04:39PM 19 A. That is correct.

04:39PM 20 Q. Yeah, it's not like after the arrest and takedown, you
04:39PM 21 can just drop the file and say, all right, I'm all done?

04:39PM 22 A. No, there was still work to do.

04:39PM 23 Q. Okay. As far as Mr. Mozg was concerned, did you believe
04:39PM 24 that he was gonna continue his investigation?

04:39PM 25 A. I don't remember him specifically saying that, but just

1 based on the overall circumstances, all the work that he had
2 done, his interest in it, that he would continue on.

3 Q. And fair to say one of reasons why it would probably
4 continue on is that it involved some type of cross-border
5 activity?

6 A. From what I remember, there was cross border marijuana
7 trafficking involved.

8 Q. And working for Customs and Border Protection, that's
9 something that that's right in their swing lane, right?

10 A. Yes.

11 Q. So even though you and Joe felt not the need continue on
12 and help in that investigation, you felt like it was going to
13 get resolved?

14 **MR. COOPER:** Judge, objection again to how the
15 defendant felt.

16 **MR. SINGER:** I asked about --

17 **THE COURT:** No, no, no, yeah, overruled.

18 **THE WITNESS:** Sorry?

19 **BY MR. SINGER:**

20 Q. So you felt that that investigation was gonna get
21 resolved in some fashion?

22 A. I thought that Tom would continue doing what he was
23 doing. I have no idea if it was gonna get resolved.

24 I think that's why he brought it to us, is because he was
25 kind of at a roadblock and a standstill, and he needed

04:40PM 1 additional assistance, and that's why he was reaching out to
04:40PM 2 us.

04:40PM 3 So I have no idea if he was able to further it. I was
04:40PM 4 under the belief that's why he brought it to us. I felt kind
04:40PM 5 of bad afterwards that we didn't provide him with more
04:40PM 6 assistance. But, again, for the reasons that I mentioned,
04:41PM 7 that's how we ended it.

04:41PM 8 Q. I understand. So, one of the other things that the
04:41PM 9 government asked you about was an incident that occurred when
04:41PM 10 you previously testified in a hearing in this matter outside
04:41PM 11 in the hallway?

04:41PM 12 A. Correct.

04:41PM 13 Q. All right. So I want to go through for a little bit.

04:41PM 14 So you had mentioned that this occurred during a break in
04:41PM 15 your testimony, right?

04:41PM 16 A. I testified. It was a break. Right. So it was in -- it
04:41PM 17 was break during testimony.

04:41PM 18 Q. Yeah. It was a break in the day, correct?

04:41PM 19 A. Yes.

04:41PM 20 Q. Like, I didn't finish your cross-examination during that
04:41PM 21 first hearing --

04:41PM 22 A. No.

04:41PM 23 Q. -- so we all went home for the night and came back in the
04:41PM 24 morning?

04:41PM 25 A. No.

04:41PM 1 Q. And you came back in the morning, and you were waiting
04:41PM 2 around for court to get started?

04:41PM 3 A. I think I had already testified, and then there was a
04:41PM 4 break. So it wasn't, like, right in the morning in the
04:41PM 5 beginning of the day. But it was the next day, it was the
04:41PM 6 second day.

04:41PM 7 Q. All right. So this meeting -- this -- this incident
04:41PM 8 occurred right next to the men's room entrance, correct?

04:41PM 9 A. Pretty much.

04:41PM 10 Q. Yeah. You're sitting on a bench that's right next to the
04:42PM 11 men's room hallway that everybody walks by, correct?

04:42PM 12 A. Pretty -- yes.

04:42PM 13 Q. And the men's room, it's not like a designated men's room
04:42PM 14 for witnesses or the defense team, it's just a public
04:42PM 15 restroom, right?

04:42PM 16 A. Best of my knowledge, it's a restroom that anybody can
04:42PM 17 use on this floor.

04:42PM 18 Q. All right. And you recall that you used the restroom at
04:42PM 19 one point in time before Mr. Bongiovanni came up and made a
04:42PM 20 comment to you, correct?

04:42PM 21 A. He walked in on me while I was using the bathroom.

04:42PM 22 Q. Okay. All right. So you were using the bathroom, right?

04:42PM 23 A. Correct.

04:42PM 24 Q. You were alone?

04:42PM 25 A. I was alone in the bathroom, and he walked -- like, I

1 didn't see his face, but I believe it was him.

2 Q. Okay. So he walks into the bathroom and sees you using
3 the facilities?

4 A. I'm using the facilities. He walks into the bathroom
5 where the door is for that part of the bathroom.

6 Q. Okay. And then he walks back out, correct?

7 A. He made an exasperated comment -- not comment, but
8 exasperated sound, and walked out.

9 Q. Yeah. Because, you know, safe to say that you don't want
10 to be in the same spot as him?

11 A. It was uncomfortable.

12 Q. He doesn't want to be in the same spot as you?

13 A. I don't know, I'm guessing.

14 Q. Yeah. And one of the things that we do in court to kind
15 of avoid those situations is that the government assigns
16 someone to be a witness keeper, for lack of a better word?

17 A. I'm not sure I understand.

18 Q. Sure. So, when you come in and testify as a witness in a
19 case like this, you're given a handler, right?

20 A. I have had one in the past, and other times I haven't.

21 But for this case, I have.

22 Q. And that's to help tell you, hey, you need to go into the
23 courtroom at this point in time, right?

24 A. Yeah. Pretty much the logistics of, hey, yeah, it's time
25 for you to testify. Or -- sure.

04:43PM 1 Q. Okay. And, so, you have this uncomfortable encounter
04:43PM 2 inside the bathroom because you guys are in the same place
04:43PM 3 together, and he walks out, right?

04:43PM 4 A. He walked out. I finished using the bathroom and came
04:43PM 5 out and sat on the bench --

04:44PM 6 Q. Um-hum.

04:44PM 7 A. -- with Ralph Joseph from the FBI.

04:44PM 8 Q. Yeah. And Ralph Joseph, he was a person who was assigned
04:44PM 9 to be there with you?

04:44PM 10 A. That, I have no idea. Ralph Joseph is a personal friend.
04:44PM 11 We worked in the same task force together at the FBI. I
04:44PM 12 don't think he was assigned -- I have no idea if he was there
04:44PM 13 and assigned to me. I thought.

04:44PM 14 Q. He's sitting next to you?

04:44PM 15 A. He's sitting next to me.

04:44PM 16 Q. And then you state that at that point in time when you're
04:44PM 17 sitting down on the bench next to the bathroom,
04:44PM 18 Mr. Bongiovanni had to use the facilities at that point in
04:44PM 19 time, walks back towards the bathroom, right?

04:44PM 20 A. He walked back towards the bathroom.

04:44PM 21 Q. And then you state that he says something to the effect
04:44PM 22 of, is this your security?

04:44PM 23 A. Something like is he your protection?

04:44PM 24 I thought it was protection. Or are you his protection?

04:44PM 25 I believe it was are you his protection?

04:44PM 1 Q. Okay. Because at the point in time when he walks into
04:44PM 2 the bathroom when you're there alone, like, you don't have
04:44PM 3 anybody with you, right?

04:44PM 4 A. I'm alone at that point.

04:44PM 5 Q. And it's an awkward situation for both of you, correct?

04:44PM 6 A. It was for me.

04:45PM 7 Q. All right. So then he notices that you have someone
04:45PM 8 sitting next to you, correct?

04:45PM 9 A. After he walks out of the bathroom back towards court.

04:45PM 10 Q. And he makes this comment, correct?

04:45PM 11 A. Correct.

04:45PM 12 Q. And then after making the comment, he walks into the
04:45PM 13 bathroom?

04:45PM 14 A. No, I believe it was he used the bathroom, and as he used
04:45PM 15 the bathroom and is walking back to court is when he made the
04:45PM 16 comment.

04:45PM 17 Q. Okay. So he makes the comment walking by you after using
04:45PM 18 the facilities?

04:45PM 19 A. Yes.

04:45PM 20 Q. And that's it, right?

04:45PM 21 A. He made that comment and walked off.

04:45PM 22 Q. Okay. All right. So, I want to shift gears a little
04:45PM 23 bit.

04:45PM 24 You get back to the Las Vegas office after a short stint
04:45PM 25 with the FBI, right?

04:45PM 1 A. Correct.

04:45PM 2 Q. So you're there from roughly 2003 until about 2013?

04:45PM 3 A. 2000 -- so summer of 2003 until December of '13, I
04:46PM 4 believe.

04:46PM 5 Q. And then you try to make it back here to Buffalo, so you
04:46PM 6 bring the family back to Buffalo, and you go down to the
04:46PM 7 New York City office?

04:46PM 8 A. Yeah. And I spent a little time here in Vegas even
04:46PM 9 before I went to New York while they were in -- until I
04:46PM 10 figured out where in the New York division I was gonna go.
04:46PM 11 They initially offered me Plattsburgh. I told them no,
04:46PM 12 which I think annoyed them. And then I had an option to go
04:46PM 13 to New York.

04:46PM 14 Q. No I get, I get it.

04:46PM 15 A. So I went to New York.

04:46PM 16 Q. So you're down in New York for roughly about a two-year
04:46PM 17 period, right?

04:46PM 18 A. Correct.

04:46PM 19 Q. And then after the two years, when a Buffalo position
04:46PM 20 opens up, in September of 2015, you move back here to the
04:46PM 21 Buffalo office?

04:46PM 22 A. It was September of '15 when I came back.

04:46PM 23 Q. All right. So we went through a little bit of this
04:46PM 24 before, so it will be quick.

04:46PM 25 So you get back to Buffalo in September of '15, and

04:46PM 1 you're assigned to D-57, right?

04:46PM 2 A. Correct.

04:46PM 3 Q. Mr. Bongiovanni is in that group at that point in time,

04:46PM 4 right?

04:46PM 5 A. He was.

04:46PM 6 Q. You guys worked some investigations when you first get

04:46PM 7 started, correct?

04:47PM 8 A. We did a controlled delivery investigation which was just

04:47PM 9 a short investigation. And then shortly after that, we

04:47PM 10 worked a long-term Ramos-Ramos investigation.

04:47PM 11 Q. Okay. And at that point in time, the group supervisor of

04:47PM 12 D-57 is Greg Yensan?

04:47PM 13 A. Correct.

04:47PM 14 Q. So he's your boss, and Joe Bongiovanni's boss, correct?

04:47PM 15 A. Correct.

04:47PM 16 Q. And I think one of the things that you took note of was

04:47PM 17 that generally speaking, the Buffalo office did not

04:47PM 18 investigate a lot of marijuana-based narcotics offenses,

04:47PM 19 correct?

04:47PM 20 A. When I got to the Buffalo office, excuse me, I did not

04:47PM 21 witness a lot of marijuana investigations in D-57 at that

04:47PM 22 time.

04:47PM 23 Q. I think your -- your experience with the group was that

04:47PM 24 they tended to focus more on cocaine, crack cocaine, heroin,

04:47PM 25 fentanyl-type cases?

04:47PM 1 A. The majority of the cases when I got there were -- I took
04:47PM 2 note of powder cocaine, because I had not worked many powder
04:48PM 3 cocaine investigations out west, because it was mostly
04:48PM 4 methamphetamine.

04:48PM 5 The U.S. Attorney's Office wanted larger amounts because
04:48PM 6 they were so busy with federal investigations to prosecute.

04:48PM 7 So I took note of it was mostly powder cocaine
04:48PM 8 investigations. I don't know if it was crack. I don't
04:48PM 9 remember much -- it was mostly powder cocaine.

04:48PM 10 Q. All right. And so you two continued working forward, and
04:48PM 11 then I think summer of 2016 a little friction starts to
04:48PM 12 develop, correct, between you two?

04:48PM 13 A. Correct.

04:48PM 14 Q. And that's based on you opening up the investigation into
04:48PM 15 Peter Gerace, correct?

04:48PM 16 A. Well, when I started investigating Peter Gerace.

04:48PM 17 Q. Based on the fact that the phone call logs that you run
04:48PM 18 on Gerace come back with Joe Bongiovanni's number --

04:48PM 19 A. Correct.

04:48PM 20 Q. -- that's something you informed Greg Yensan about,
04:48PM 21 correct?

04:48PM 22 A. I made Greg aware of it.

04:48PM 23 Q. And at that point in time, I think you testified that you
04:48PM 24 noticed that Mr. Bongiovanni's demeanor towards you changed?

04:48PM 25 A. It did.

04:48PM 1 Q. He was kind of giving you the cold shoulder in the
04:49PM 2 office?

04:49PM 3 A. Correct.

04:49PM 4 Q. All right. So before we get into that, I want to go back
04:49PM 5 a little bit more in time to before you got to the office.

04:49PM 6 So June of 2015, that's when this reunion for Saint Joe's
04:49PM 7 Collegiate Institute happens, correct?

04:49PM 8 A. It was -- I think it was June. It was before I came
04:49PM 9 back, summer of '15.

04:49PM 10 Q. So summer of '15 is when this -- I realize you may not
04:49PM 11 remember the date, but it occurs in the summer --

04:49PM 12 A. Correct.

04:49PM 13 Q. -- before you get back here officially in Buffalo?

04:49PM 14 A. Yes.

04:49PM 15 Q. And so Peter Gerace is part of your graduating class,
04:49PM 16 class of '85, right?

04:49PM 17 A. He is, yes.

04:49PM 18 Q. And so he was at the reunion that night?

04:49PM 19 A. He was.

04:49PM 20 Q. And you were at the reunion that night?

04:49PM 21 A. I was.

04:49PM 22 Q. And there were other people in your class at the reunion
04:49PM 23 that night, correct?

04:49PM 24 A. I believe 50, somewhere around there.

04:49PM 25 Q. And so I'm assuming everyone from the old class is

04:49PM 1 socializing back and forth, correct?

04:49PM 2 A. Yeah, for the most part.

04:49PM 3 Q. This was over at Big Ditch?

04:49PM 4 A. Big Ditch.

04:49PM 5 Q. So everyone's drinking beers and catching up?

04:49PM 6 A. People were drinking beers, yep.

04:49PM 7 Q. And so at some point in time, Peter Gerace comes up to
04:50PM 8 you, correct?

04:50PM 9 A. Correct.

04:50PM 10 Q. And he mentions, based on your testimony, that -- that
04:50PM 11 Joe Bongiovanni is over at Tappo with his brother, and you
04:50PM 12 guys should go on over there and go check it out?

04:50PM 13 A. Correct.

04:50PM 14 Q. And I think you stated that initially you declined the
04:50PM 15 invitation?

04:50PM 16 A. Correct.

04:50PM 17 Q. But Peter Gerace insisted that you come, and you
04:50PM 18 eventually agreed?

04:50PM 19 A. Correct.

04:50PM 20 Q. Big Ditch and Tappo are not really that far away from
04:50PM 21 each other, right?

04:50PM 22 A. I believe they're right across the street from each
04:50PM 23 other.

04:50PM 24 Q. Yeah. And so you, at that point in time, you go over to
04:50PM 25 Tappo, and you see Joe Bongiovanni, correct?

1 A. Walk in, and Joe's at the bar.

2 Q. And you said that what you noticed was that he tried to
3 crawl under a table, or looked like he was gonna crawl under
4 a table?

5 A. He looked very uncomfortable, almost like he wanted to
6 crawl under the table. Uncomfortable seeing me there, that's
7 how I perceived it.

8 Q. So you perceived that he was uncomfortable seeing you?

9 A. That was my perception. Like he was surprised to see me
10 and uncomfortable to see me.

11 Q. Okay. So was it surprise or uncomfortable? Because
12 those are two different things.

13 A. Both.

14 **MR. COOPER:** Objection.

15 **THE COURT:** Basis?

16 **MR. COOPER:** Argumentative.

17 **THE COURT:** No.

18 **MR. COOPER:** Surprised or uncomfortable.

19 **THE COURT:** No, overruled. Overruled.

20 **BY MR. SINGER:**

21 Q. So was it surprise or uncomfortable, sir?

22 A. I think kind of both.

23 Q. So kind of both?

24 A. Yes.

25 Q. All right. So, you claim that -- that Anthony Gerace was

04:51PM 1 sitting at the table with three other people with Joe

04:51PM 2 Bongiovanni?

04:51PM 3 A. So it was at the bar. There was Joe, and then I believe

04:51PM 4 three or four people next to him. And Anthony Gerace was one

04:51PM 5 of those people.

04:51PM 6 Q. All right. So this is June of 2015, right?

04:51PM 7 A. This is the night of the reunion.

04:51PM 8 Q. Before you moved back here, correct?

04:51PM 9 A. Before I moved back.

04:51PM 10 Q. Before you started with the DEA here?

04:51PM 11 A. Before I started in Buffalo.

04:51PM 12 Q. And well before you open your investigation into Anthony

04:51PM 13 Gerace, correct?

04:51PM 14 A. It was -- yes, it was before. Yes.

04:51PM 15 Q. Yeah. And you didn't really know who Anthony Gerace was

04:51PM 16 at that point, correct?

04:51PM 17 A. Just -- I'd never met him before, and it was Peter's

04:51PM 18 brother.

04:51PM 19 Q. But you remember testifying on direct that you were

04:52PM 20 fixated on Anthony Gerace when you got introduced to him?

04:52PM 21 A. Yeah. Yeah. I was pretty much focused more on Anthony

04:52PM 22 because he was Peter's brother.

04:52PM 23 Q. But why would you be fixated on someone who you didn't

04:52PM 24 investigate at that point in time?

04:52PM 25 A. Because he was Peter's brother.

04:52PM 1 Q. Okay. So the reason why you were fixated on Anthony
04:52PM 2 Gerace at that time is because he was Peter's brother?

04:52PM 3 A. Pretty much.

04:52PM 4 Q. So you say that after Tappo, everyone walks back -- you,
04:52PM 5 Joe, and Peter -- to Big Ditch again?

04:52PM 6 A. Back to Big Ditch across the street.

04:52PM 7 Q. And eventually you say that you kind of separate yourself
04:52PM 8 from Peter Gerace?

04:52PM 9 A. Yeah. Again, I -- I had friends from playing hockey at
04:52PM 10 Saint Joe's who I stayed close with. So I kind of went off
04:52PM 11 more off to that group, while Joe and Peter went into a
04:52PM 12 group. And I just remember a couple of the football players
04:52PM 13 that I knew.

04:52PM 14 Q. Okay. And then at some point at this party, you
04:53PM 15 testified on direct that one of your classmates states, hey,
04:53PM 16 we're all going over to Pharaoh's to blow coke off strippers
04:53PM 17 asses. Do you want to come, Tony?

04:53PM 18 A. He didn't say do you want to come, Tony? But he did say
04:53PM 19 what you said before that.

04:53PM 20 He said we're all going to Pharaoh's to snort coke off
04:53PM 21 strippers asses.

04:53PM 22 Q. So did this individual yell this out to the group?

04:53PM 23 A. He was standing with several other individuals, and said
04:53PM 24 it loudly enough where as other people that were with him
04:53PM 25 even snickered.

04:53PM 1 Q. Okay. So, just to kind of resettle a little, we're at a
04:53PM 2 Catholic school reunion, right?

04:53PM 3 A. It is a Catholic -- well, Saint Joe's is a Catholic
04:53PM 4 institution. Christian Brothers.

04:53PM 5 Q. There are 50 people who graduated from Saint Joe's at
04:53PM 6 this event.

04:53PM 7 A. There were approximately 50 people that were at that
04:53PM 8 party that I remember.

04:53PM 9 Q. And you guys are the class of 1985 at that point, right?

04:53PM 10 A. '85.

04:53PM 11 Q. So we're not talking about a bunch of 20-year olds who
04:54PM 12 just got out of college or just graduated high school, right?

04:54PM 13 A. No, we were much older than that.

04:54PM 14 Q. Yeah. We're talking about a bunch of middle-aged guys,
04:54PM 15 right?

04:54PM 16 A. Pretty much.

04:54PM 17 Q. And one of these middle-aged guys yells out, hey, we're
04:54PM 18 all gonna go to Pharaoh's and blow coke off of a stripper's
04:54PM 19 ass?

04:54PM 20 A. Yes, he did.

04:54PM 21 Q. Who was this guy who said that?

04:54PM 22 A. His name is John Maher. And he passed away from COVID.

04:54PM 23 Q. Did you report him to authorities?

04:54PM 24 A. No.

04:54PM 25 Q. Well, he just admitted to a federal narcotics crime.

04:54PM 1 A. He stated what he stated, and I did not report it.

04:54PM 2 Did I report it to who, sir?

04:54PM 3 Q. Authorities.

04:54PM 4 A. Meaning, did I report it to my agency? Or the Buffalo

04:54PM 5 Police Department?

04:54PM 6 Q. Yeah. So, you're a DEA agent, right?

04:54PM 7 A. Correct.

04:54PM 8 Q. You have federal law enforcement authority?

04:54PM 9 A. Yep.

04:54PM 10 Q. You're vested with the power to arrest people?

04:54PM 11 A. Correct.

04:54PM 12 Q. Did you call up DEA Buffalo and say, hey, there's gonna

04:54PM 13 be drug activity going on at Pharaoh's, we need to send

04:54PM 14 agents over there to bust this up?

04:55PM 15 A. No, I didn't report that.

04:55PM 16 Q. Did you report that this one individual who unfortunately

04:55PM 17 passed away from COVID, before he passed away from COVID, did

04:55PM 18 you report him as to this is a person who we need to

04:55PM 19 investigate for narcotics crimes?

04:55PM 20 A. No, I did not.

04:55PM 21 Q. Why not?

04:55PM 22 A. I didn't know John in the past even being involved with

04:55PM 23 cocaine, so I was kind of surprised. So I chose not to. I

04:55PM 24 never knew John was even that type of person until he said

04:55PM 25 that.

04:55PM 1 Q. So Peter Gerace, you didn't really have a good
04:55PM 2 relationship with him, right?

04:55PM 3 A. Peter was -- yeah, he wasn't -- he wasn't a friend of
04:55PM 4 mine, and he's a convicted felon. He'd been in trouble
04:55PM 5 before. And the belief amongst a lot of the classmates was
04:55PM 6 he was involved heavily with cocaine.

04:55PM 7 Q. Okay. So you know that. This classmate says we're all
04:55PM 8 gonna go over and blow cocaine off a stripper's ass at
04:55PM 9 Pharaoh's?

04:55PM 10 A. Correct.

04:55PM 11 Q. Did you report that Pharaoh's may be involved in drug
04:55PM 12 activity based on what you heard?

04:55PM 13 A. I did not report that.

04:55PM 14 Q. But you have this belief that Peter Gerace is involved in
04:56PM 15 illegal activity, right?

04:56PM 16 A. What I stated about him being a convicted felon and
04:56PM 17 involved with cocaine --

04:56PM 18 Q. Yeah.

04:56PM 19 A. -- that was my belief at the time.

04:56PM 20 Q. So that was the belief, right?

04:56PM 21 A. Yep.

04:56PM 22 Q. And then someone confirms the belief that you had that
04:56PM 23 there's cocaine activity going on at Peter Gerace's
04:56PM 24 establishment, right?

04:56PM 25 A. He said that they were gonna go there and snort coke off

04:56PM 1 strippers asses.

04:56PM 2 Q. But you don't do anything to intervene?

04:56PM 3 A. I listened, and didn't do anything, and remembered it.

04:56PM 4 Q. Yeah. I think you said you filed it away in your brain,
04:56PM 5 right?

04:56PM 6 A. Yes.

04:56PM 7 Q. But that's all you did?

04:56PM 8 A. That's all I did.

04:56PM 9 Q. And then when you get back to Buffalo in September of
04:56PM 10 2015, you don't open up an investigation into your classmate
04:56PM 11 who made this statement, right?

04:56PM 12 A. No.

04:56PM 13 Q. You don't open up an investigation into Peter Gerace,
04:56PM 14 correct?

04:56PM 15 A. I did not start investigating Peter Gerace until the
04:56PM 16 summer of 2016.

04:56PM 17 Q. Yeah, so a year later, right?

04:57PM 18 A. Year later.

04:57PM 19 Q. Did you lose it in the file in your brain?

04:57PM 20 A. No.

04:57PM 21 Q. Just took you a year to open up an investigation?

04:57PM 22 A. That's when I chose to do it.

04:57PM 23 Q. And that that was the first time really that this
04:57PM 24 incident ever really made it to the light of day, right?

04:57PM 25 A. It made it to the light of day -- what do you mean?

04:57PM 1 Q. Sure. So I guess when you opened up the Peter Gerace
04:57PM 2 file, did you document this incident at your reunion inside
04:57PM 3 the case opening DEA-6?

04:57PM 4 A. We never opened a case on Peter. It never got to an
04:57PM 5 actual open case file. There was no case initiation.

04:57PM 6 We did open a case under Anthony Gerace at some point,
04:57PM 7 which we closed shortly thereafter because of what came up
04:57PM 8 during the Serio proffer. And it was agreed amongst DEA and
04:57PM 9 HSI management to only have an open file on Anthony Gerace at
04:57PM 10 HSI because of what was said about Joe.

04:57PM 11 Q. Okay. But you never opened up a file vis-à-vis this
04:58PM 12 incident on anybody?

04:58PM 13 A. An actual file was never opened up on Peter Gerace, it
04:58PM 14 was opened up under Anthony Gerace.

04:58PM 15 Q. And you never reported this to anybody?

04:58PM 16 A. And it was closed shortly thereafter for the reasons that
04:58PM 17 I said.

04:58PM 18 Q. And you never reported this to anybody?

04:58PM 19 A. This was never documented in a DEA-6.

04:58PM 20 Q. All right. So getting back at the friction that starts
04:58PM 21 to develop between you and Joe Bongiovanni.

04:58PM 22 So, the friction's caused by your desire to look into
04:58PM 23 Peter Gerace's phone records, right?

04:58PM 24 A. It was when I started investigating Peter.

04:58PM 25 Q. And the fact that Joe Bongiovanni's phone records -- or,

1 sorry, phone number comes back in those records, right?

2 A. His phone number came up in the phone records.

3 Q. So you talked a little bit about the first steps that
4 you've taken in this type of investigation.

5 So one of the first steps is that you subpoena Peter
6 Gerace's phone records, right?

7 A. Correct.

8 Q. And that's a common first step in DEA investigations,
9 right?

10 A. Yeah. That's a common first step in any investigation.

11 Q. Yeah. And so, you know, you talked about how before you
12 did this, you had a conversation with G.S. Yensan about, hey,
13 this is what I'm prepared to do, and I just want to give you
14 a heads-up because Joe Bongiovanni's number may come up in
15 this, correct?

16 A. We did have a conversation.

17 Q. And Yensan says move forward, or words to that effect?

18 A. Greg said subpoena the tolls, see if his number comes up,
19 and if it does, just come bring it to me. Essentially.

20 Q. So you get the subpoena return back, his number's in
21 there, correct?

22 A. Yes.

23 Q. And then you go over to Yensan and inform G.S. Yensan
24 that, hey, his number was in there?

25 A. Yeah, I think I actually gave him the hot list.

04:59PM 1 Q. Okay. And so this is something that you indicated caused
05:00PM 2 Mr. Bongiovanni's behavior to change?

05:00PM 3 A. Yeah. He stopped talking to me essentially.

05:00PM 4 Q. Yeah. So it's obvious that Yensan spoke to him about it
05:00PM 5 in some fashion? Or he found out, Mr. Bongiovanni?

05:00PM 6 A. Greg told me that he had --

05:00PM 7 Q. Yeah, I'm not interesting in what he said.

05:00PM 8 A. Okay.

05:00PM 9 Q. But your understanding was at some point in time,
05:00PM 10 Mr. Bongiovanni found out about this?

05:00PM 11 A. Based on Joe's behavior towards me, it was my belief that
05:00PM 12 Greg said something to him.

05:00PM 13 Q. Okay. And, so, with regard to the investigation,
05:00PM 14 separate from Joe you get the subpoena return, correct?

05:00PM 15 A. So I get a subpoena return back on the Peter Gerace
05:00PM 16 number.

05:00PM 17 Q. And, again, you talked about how you analyzed the
05:00PM 18 records, you ran a hot list on them, correct?

05:00PM 19 A. I think I had an analyst give me a hot list back.

05:00PM 20 Q. So that was under an effort to figure out who was it that
05:00PM 21 Peter Gerace was talking to, correct?

05:00PM 22 A. Yes.

05:00PM 23 Q. And as far as the next step in the investigation, is
05:01PM 24 usually to figure out, okay, well, if Peter Gerace is
05:01PM 25 associated with these people, how can we potentially develop

05:01PM 1 an informant?

05:01PM 2 A. That could be a step in that process.

05:01PM 3 Q. Did you investigate any of the names of the individuals
05:01PM 4 that came back off that hot list?

05:01PM 5 A. So, from what I remember, is at that point, I was
05:01PM 6 speaking with a detective from the Amherst Police Department,
05:01PM 7 JoAnn DiNoto. Because he -- started to live in Amherst, who
05:01PM 8 was introduced to me by Greg Yensan, who worked with her
05:01PM 9 previously, and so they --

05:01PM 10 Q. Sir, just --

05:01PM 11 A. -- we did a workup -- she did a workup on the phone
05:01PM 12 numbers to try to identify the phone numbers.

05:01PM 13 Q. Okay. So she tried to identify who those phone numbers
05:01PM 14 were?

05:01PM 15 A. She did.

05:01PM 16 Q. And as far as those phone numbers are concerned, did you
05:01PM 17 interview anyone based on those phone numbers that you
05:01PM 18 received back?

05:01PM 19 A. I don't remember us interviewing anybody. I just
05:01PM 20 remember some of the names that were identified.

05:01PM 21 Q. So you didn't interview any of the employees at the club?

05:01PM 22 A. No.

05:01PM 23 Q. You didn't interview any type of strippers at the club?

05:02PM 24 A. No, we never got to that point.

05:02PM 25 Q. You didn't identify any type of patrons at the club?

05:02PM 1 A. No. And, again, from my past experience, that's not how
05:02PM 2 I would typically proceed with an investigation.

05:02PM 3 I would not go out and start interviewing people right at
05:02PM 4 the start of an investigation out of fear that those people
05:02PM 5 that we interviewed would go back and tell Peter Gerace that
05:02PM 6 they're being questioned by the DEA.

05:02PM 7 I typically chose other routes. I --

05:02PM 8 Q. Okay.

05:02PM 9 A. I try to develop informants. That's how it typically
05:02PM 10 worked, even if I had to wait.

05:02PM 11 Q. Yeah. And so I guess in developing informants, did you
05:02PM 12 conduct any surveillance at Pharaoh's Gentlemen's Club?

05:02PM 13 A. No, we did not conduct surveillance.

05:02PM 14 Q. So you didn't sit in the parking lot and take note of the
05:02PM 15 license plates that were going in and out of the club?

05:02PM 16 A. I never did. I'm not sure if anybody else did.

05:02PM 17 Q. Did you ever direct anybody or yourself go to Pharaoh's
05:02PM 18 to determine whether or not there was drug dealing activity
05:02PM 19 that you could observe?

05:02PM 20 A. I never directed anybody to do that.

05:02PM 21 Q. Do you ever conduct any type of surveillance outside of
05:02PM 22 Peter Gerace's house?

05:02PM 23 A. I never did.

05:02PM 24 Q. Did you ever coordinate with any other agencies other
05:03PM 25 than JoAnn DiNoto at APD to determine if they had any

1 information vis-à-vis Peter Gerace?

2 A. It was just I believe the Amherst Police Department at
3 that point. Oh, I'm sorry. And Homeland Security. And
4 Homeland Security.

5 It was TJ Webb from Homeland Security that began to
6 supply me with information on Anthony Gerace.

7 Q. Yeah. But I'm talking about Peter Gerace right now.

8 A. And I'm trying to remember if TJ gave us information on
9 Peter or not. I can't remember if TJ had information on
10 Peter or not, as well. But definitely Anthony.

11 Q. Did you try any type of undercover buys at Pharaoh's
12 Gentlemen's Club?

13 A. We didn't, because we had no informants.

14 Q. Did you do any type of trash pulls at Pharaoh's
15 Gentlemen's Club?

16 A. No. We did no trash pulls.

17 Q. How about Peter Gerace's house, did you do any --

18 A. I'm sorry, TJ Webb may have done a trash pull.

19 Q. Are you sure about that?

20 A. No, I'm not sure about that.

21 Q. Okay. Well --

22 A. I didn't do a trash pull. And DEA in my group did not do
23 a trash pull.

24 Q. How about at Peter Gerace's house? Did you perform any
25 trash pulls there?

05:04PM 1 A. No.

05:04PM 2 Q. How about a pole camera? Did you install any type of
05:04PM 3 pole camera at Pharaoh's Gentlemen's Club?

05:04PM 4 A. No, not at that point.

05:04PM 5 Q. What about at Peter Gerace's house?

05:04PM 6 A. Pole camera at his house?

05:04PM 7 Q. Correct.

05:04PM 8 A. No.

05:04PM 9 Q. Did you apply for any type of Title III wiretaps?

05:04PM 10 A. Oh, we weren't even close to that. That is -- was very
05:04PM 11 far off. You can't just jump to apply for wiretaps.

05:04PM 12 Q. Yeah, it takes a lot of steps before you get to that
05:04PM 13 stage.

05:04PM 14 A. 100 percent. We weren't even remotely close to that.

05:04PM 15 Q. How about pen registers?

05:04PM 16 A. Nope. We did not apply for a pen register. We were just
05:04PM 17 ordering tolls.

05:04PM 18 Q. And I think you testified, you know, that one of the main
05:04PM 19 ways that you developed cases is that you try to look for an
05:04PM 20 informant, or develop an informant, correct?

05:04PM 21 A. Hopefully over time that may work out.

05:04PM 22 Q. And so this particular investigation, fair to say, it
05:04PM 23 laid dormant for a little bit of time?

05:05PM 24 A. Yeah. It wasn't very active after my conversation with
05:05PM 25 Joe.

05:05PM 1 Q. And it doesn't mean that you weren't working on other
05:05PM 2 files at the time, right, sir?

05:05PM 3 A. I was working on other cases.

05:05PM 4 Q. Yeah, like Ramos-Ramos?

05:05PM 5 A. Ramos-Ramos. Ramos-Ramos was already over, and I believe
05:05PM 6 we were still cleaning it up. We were still up on phones and
05:05PM 7 going out and doing surveillance and purchases, but I don't
05:05PM 8 think it was closed yet. So there was still some work most
05:05PM 9 likely to be done at that point.

05:05PM 10 Q. Yeah. So the file was open for a period of time, it was
05:05PM 11 dormant for a period of time, right?

05:05PM 12 A. It was -- on who?

05:05PM 13 Q. On Peter Gerace.

05:05PM 14 A. We never opened a file. It was the beginning stages,
05:05PM 15 like I mentioned before. So after the conversation with Joe
05:05PM 16 in the conference room, I did not do much at that point.

05:05PM 17 Q. Okay. But it seems like you didn't really do much at all
05:05PM 18 for other reasons too, right?

05:05PM 19 A. What do you mean?

05:05PM 20 Q. Well, we went through a list of investigative steps that
05:05PM 21 you didn't take, right?

05:05PM 22 A. I -- I didn't do the things that I mentioned that you
05:06PM 23 asked me about.

05:06PM 24 Q. Um-hum. So, in 2017, in January of 2017, things --
05:06PM 25 things change, right?

05:06PM 1 A. We conducted a proffer, and someone had information.

05:06PM 2 Q. Yeah. So Kevin Myszka gets arrested, right?

05:06PM 3 A. Kevin gets arrested.

05:06PM 4 Q. And that was based on an operation that you had involving
05:06PM 5 him, correct?

05:06PM 6 A. Yep, and the Amherst Police Department.

05:06PM 7 Q. And so as part of a search warrant that was executed in
05:06PM 8 that operation, you gain a lot of evidence against Kevin
05:06PM 9 Myszka, correct?

05:06PM 10 A. I think it was a firearm and some cocaine and a scale.

05:06PM 11 Q. And so that provides an opportunity for you to seek a
05:06PM 12 proffer interview of potentially -- through Kevin Myszka,
05:06PM 13 correct?

05:06PM 14 A. He eventually agreed to conduct proffers through his
05:06PM 15 attorney.

05:06PM 16 Q. And that would provide you an opportunity to develop the
05:06PM 17 source that you were lacking in that operation, correct?

05:06PM 18 A. Possibly. I mean, for me, my personal opinion was he was
05:06PM 19 already arrested. I didn't know if other people knew that he
05:06PM 20 was arrested.

05:06PM 21 Typically we try -- I have in past experience, we try to
05:06PM 22 get someone to cooperate quickly after they're arrested, so
05:07PM 23 not many people would know. But in his case, it had gone on
05:07PM 24 for months.

05:07PM 25 So for me it was like maybe he can provide some

1 intelligence. I didn't know if he could do anything
2 proactive, because I felt that he was already exposed at that
3 point.

4 Q. Okay. But you do sit down with him, and you have
5 information that Kevin Myszka provides you that's valuable to
6 your Peter Gerace investigation, right?

7 A. He mentions things about Peter Gerace and cocaine and
8 Pharaoh's, correct. And Anthony Gerace.

9 Q. And that's much more than you had when you started off
10 looking at Peter Gerace?

11 A. Yes, it was an actual person that I'm interviewing
12 providing information.

13 Q. And Kevin Myszka eventually leads you to other people who
14 potentially could be used as confidential sources, correct?

15 A. Kevin Myszka led us to buys with an individual. And then
16 based on those buys, we went up on a wiretap on his phone.

17 Q. Yeah. So, like, Jeff Anzalone was one of those people?

18 A. Jeff Anzalone.

19 Q. And then Jeff Anzalone eventually developed another
20 source, K.L., correct?

21 A. I know of K.L. I don't know how she was developed. I
22 thought we had developed her.

23 I didn't know Jeff Anzalone -- I don't know what you mean
24 by Jeff Anzalone helped develop.

25 Q. Sure. Well, at least, Jeff Anzalone, you understood him

1 to be a patron of Pharaoh's Gentlemen's Club, right?

2 A. At the time of the -- yes, from the Myszka proffers, I
3 believe Anzalone was one of the people that went there.

4 Q. And you understood him to be a cocaine user, correct?

5 A. Yes.

6 Q. And you understood him to be someone who could
7 potentially purchase cocaine at Pharaoh's Gentlemen's Club,
8 correct?

9 A. I don't know if we got to that point with him being able
10 to purchase cocaine. I can't remember from the proffer. It
11 could have came up in the proffer.

12 Q. All right.

13 A. Kevin could have said that he was with him when they
14 purchased it, I just don't remember.

15 Q. Okay. But, you know, potentially, like, your
16 investigation with this break with Kevin Myszka finally
17 provides you something to move forward with in that
18 investigation, right?

19 A. Again, what he had said based on the proffer and what we
20 documented about being at Pharaoh's and getting cocaine, I
21 can't remember if it was Peter or Anthony, like, that was
22 beneficial.

23 Q. Okay. All right. So, kind of moving forward through
24 2016 to 2017, your relationship deteriorates over the course
25 of time with Agent Bongiovanni, correct?

05:09PM 1 A. We just stopped working cases together. We still spoke,
05:09PM 2 but we stopped working as partners on cases.

05:09PM 3 Q. Yeah. Things are awkward between you based on what
05:09PM 4 happened in June, correct?

05:09PM 5 A. Well, that was an initially it. But then for me, what
05:09PM 6 stopped it the most was when he said he couldn't continue on
05:09PM 7 with the Kevin Myszka investigation because he didn't trust
05:09PM 8 the informant. And he had met Kevin at a party in Toronto.

05:09PM 9 So when he said he didn't want to be involved anymore at
05:09PM 10 that point, it was like it's probably best that we just part
05:09PM 11 ways at this point.

05:09PM 12 Q. Okay. So you continued to work in D-57 for a period of
05:09PM 13 time, right?

05:09PM 14 A. I did, yes.

05:09PM 15 Q. But things aren't improving between Bongiovanni and
05:09PM 16 yourself?

05:09PM 17 A. Things are what?

05:09PM 18 Q. Things are not improving between Bongiovanni and
05:10PM 19 yourself, correct?

05:10PM 20 A. It wasn't like that. It wasn't like -- Joe wasn't
05:10PM 21 confrontational. He wasn't rude. He wasn't -- we still
05:10PM 22 spoke. He just worked cases, I believe, with Joe Palmieri
05:10PM 23 again, and I was working with another task force officer. So
05:10PM 24 it wasn't like they weren't improving, we just went our
05:10PM 25 separate ways.

05:10PM 1 Q. Yeah. And eventually you get transferred over to D-58?

05:10PM 2 A. I requested a transfer through the resident agent in

05:10PM 3 charge to go work in D-58.

05:10PM 4 Q. And so that transfer, that occurs sometime in June or the

05:10PM 5 summer of 2018, correct?

05:10PM 6 A. I don't know. I -- I can't remember. What I can

05:10PM 7 remember is that I spent approximately maybe a couple years

05:10PM 8 in 57. So, if I started in September of '15, so, summer of

05:10PM 9 '17. It could have been the beginning of '18, somewhere

05:10PM 10 around the beginning of '18. Approximately.

05:10PM 11 Q. At least what you do remember, sir, is that your transfer

05:10PM 12 over to D-58, that occurs before the Ron Serio proffer in

05:11PM 13 July 20 of 2018?

05:11PM 14 A. Yes.

05:11PM 15 Q. It occurs before you met with the U.S. Attorney's Office

05:11PM 16 on August 1st, 2018?

05:11PM 17 A. Yes.

05:11PM 18 Q. And it occurs months before that stuff, right?

05:11PM 19 A. Yes.

05:11PM 20 Q. Those meetings, I should say.

05:11PM 21 A. Yes, I'm pretty sure.

05:11PM 22 Q. All right. So you're working over in D-58 at that point

05:11PM 23 in time in 2018. And is that when you start to work a little

05:11PM 24 bit with Curtis Ryan?

05:11PM 25 A. Correct.

05:11PM 1 Q. Because he's also a member of D-58 at that time?

05:11PM 2 A. Part of D-58, and he sits directly across from me.

05:11PM 3 Q. And I think at one point, you two were talking about

05:11PM 4 investigations that you're running, and you start talking

05:11PM 5 about the Anthony Gerace investigation?

05:11PM 6 A. So the reason I spoke to Curtis about that was it was

05:11PM 7 after I believe I received a call from the U.S. Attorney's

05:11PM 8 Office saying that they were opening a file on Anthony and

05:11PM 9 Peter Gerace.

05:11PM 10 Q. Yeah. And so with regard to Anthony Gerace, you learned

05:11PM 11 at some point in time there was a nexus between Anthony

05:11PM 12 Gerace and Ron Serio; is that right?

05:12PM 13 A. I did. Yes. Correct.

05:12PM 14 Q. The nexus was -- is that there was belief, based on Ron

05:12PM 15 Serio's proffer interviews, that Ron Serio was either selling

05:12PM 16 or receiving marijuana from Anthony Gerace?

05:12PM 17 A. From the proffer, Ron Serio stated that he had supplied

05:12PM 18 Anthony Gerace marijuana.

05:12PM 19 Q. And so, based on that information, you had an

05:12PM 20 investigation open into Anthony Gerace for a while, correct?

05:12PM 21 A. Again, we didn't have an actual case file opened, it was

05:12PM 22 similar to Peter, but I had subpoenaed phone records and

05:12PM 23 whatnot.

05:12PM 24 Q. All right. And you saw this as an opportunity to at

05:12PM 25 least obtain intelligence regarding Anthony Gerace, correct?

05:12PM 1 A. I told Curtis we should go back and reinterview Ron Serio
05:12PM 2 and ask him about Anthony Gerace.

05:12PM 3 Q. And so prior to the July 20, 2018 proffer with Ron Serio,
05:12PM 4 you started preparing yourself to go into that proffer,
05:12PM 5 right?

05:12PM 6 A. Not really.

05:12PM 7 Q. So, you just went in there and decided to ask him some
05:12PM 8 questions, and -- did you prepare at all, sir?

05:13PM 9 A. It wasn't really a formal preparing. Curtis and I just
05:13PM 10 kind of went in there and said let's see where this goes.
05:13PM 11 Let's try to focus on Anthony Gerace, because he didn't --
05:13PM 12 since my focus was Anthony Gerace, it wasn't Curtis's, I
05:13PM 13 brought it to the attention of Curtis, hey, let's go in and
05:13PM 14 ask him specifically about Anthony Gerace.

05:13PM 15 Q. Okay.

05:13PM 16 A. So in terms of a plan, that was -- that was mostly it.

05:13PM 17 Q. Okay. And this was important because, kind of like Peter
05:13PM 18 Gerace, up until that point you didn't conduct any type of
05:13PM 19 surveillance regarding Anthony Gerace, right?

05:13PM 20 A. I don't think we did much at that point. I, again, I
05:13PM 21 spoke to TJ Webb more.

05:13PM 22 Q. I got it. But --

05:13PM 23 A. No, I never conducted surveillance on Anthony Gerace.

05:13PM 24 Q. You didn't conduct any type of trash pulls?

05:13PM 25 A. No.

05:13PM 1 Q. No pole cams?

05:13PM 2 A. I didn't.

05:13PM 3 Q. No pen registers?

05:13PM 4 A. I didn't.

05:13PM 5 Q. You got the phone records, but --

05:13PM 6 A. Phone records.

05:13PM 7 Q. -- that was it?

05:13PM 8 A. Phone records and some reports, I believe, from TJ Webb

05:14PM 9 from Homeland Security, yeah.

05:14PM 10 Q. And the same kind of situation where you're waiting for

05:14PM 11 some insider to provide you information that you might be

05:14PM 12 able to use?

05:14PM 13 A. Trying to develop a human source.

05:14PM 14 Q. Okay. Because that's important to DEA investigations,

05:14PM 15 right?

05:14PM 16 A. That's very important, and that was something that I was

05:14PM 17 very familiar with. That was my way of working.

05:14PM 18 Q. Okay. So the 7/20/2018 proffer, you attend that proffer,

05:14PM 19 correct?

05:14PM 20 A. I can't remember the date, but I believe you.

05:14PM 21 Q. And then when you attend that proffer, this is the

05:14PM 22 proffer where Ron Serio raises allegations about Joe

05:14PM 23 Bongiovanni receiving money in exchange for information,

05:14PM 24 correct?

05:14PM 25 A. All I -- when I was in that proffer, I wasn't part of the

1 proffer where he mentioned bribes and money. I was part of
2 the proffer in what I remember was that Joe Bongiovanni was
3 passing names of informants. And he named three names.

4 So, during that proffer, there was nothing mentioned
5 about bribes or money, it was the passing of those
6 informants' names.

7 Q. And so following this proffer, you knew about this
8 information, correct?

9 A. We what?

10 Q. You knew about this information?

11 A. So, I heard what I heard during the proffer.

12 Q. And you were working at D-58 at that time?

13 A. Still in D-58.

14 Q. G.S. Jim McHugh was the group supervisor or boss?

15 A. He was the group supervisor, correct.

16 Q. He was the boss for both you and Curtis Ryan?

17 A. Correct.

18 Q. And after hearing that information, you decide we both
19 need to go back and report this to G.S. McHugh, correct?

20 A. Correct.

21 Q. And you guys do do that, correct?

22 A. We did.

23 Q. After you make this report to G.S. McHugh, you asked
24 G.S. McHugh for permission to take a look at the Ron Serio
25 file that Joe Bongiovanni worked on?

05:15PM 1 A. Not during that meeting. But at some point after that
05:15PM 2 meeting with Jim, I asked Jim other things initially.

05:15PM 3 Q. And so with regard to this particular file, you said that
05:15PM 4 you went to the file room?

05:15PM 5 A. So I asked Jim, would it be okay if I went and retrieved
05:16PM 6 the Serio file from the file room to look at it. Because of
05:16PM 7 the proffer that we had just done, and to look through the
05:16PM 8 file. And he said yes, it was okay.

05:16PM 9 Q. And you get this file, and you start going through the
05:16PM 10 DEA-6s, correct?

05:16PM 11 A. Went mostly through the DEA-6s. I saw there were lots of
05:16PM 12 subpoenas, which I chose not to go through. I went right to
05:16PM 13 the DEA-6s, and started going through the 6s.

05:16PM 14 Q. So you went through the subpoenas -- sorry, you went
05:16PM 15 through the DEA-6s and read those, right?

05:16PM 16 A. Quickly.

05:16PM 17 Q. You read the DEA-6s quickly. And as far as the
05:16PM 18 subpoenas, you never looked through any of them?

05:16PM 19 A. There were a lot of subpoenas. Again, it was a thick
05:16PM 20 file, but I did not go through all the subpoenas. I may have
05:16PM 21 briefly gone through some of them, but I didn't spend a lot
05:16PM 22 of time going through the subpoenas.

05:16PM 23 Q. Did you gain an understanding of what the subpoenas were
05:16PM 24 directed to?

05:16PM 25 A. Can -- what do you mean?

05:16PM 1 Q. Well, you looked through the subpoenas quickly, right,
05:17PM 2 sir?

05:17PM 3 A. I looked through the subpoenas quickly.

05:17PM 4 Q. Did you see whether they were directed at phones,
05:17PM 5 utilities, something else?

05:17PM 6 A. Oh, I'm sorry, phones. They were phones.

05:17PM 7 Q. So they were phones?

05:17PM 8 A. Mostly phones, from what I remember.

05:17PM 9 Q. What about utilities, did ever see any subpoenas directed
05:17PM 10 towards utilities?

05:17PM 11 A. I don't remember.

05:17PM 12 Q. So you mentioned that this was the paper file, correct?

05:17PM 13 A. This was the case file. So there's two case files,
05:17PM 14 right? The actual case file, and then a mirror case file
05:17PM 15 which is the U.S. Attorney's copy.

05:17PM 16 Q. Okay.

05:17PM 17 A. So it was the actual case file.

05:17PM 18 I don't remember if it was the AUSA copy for the U.S.
05:17PM 19 Attorney's Office, or the actual criminal file for DEA.

05:17PM 20 Q. Okay. But you're familiar with the fact that there are
05:17PM 21 also files on the share drive in the DEA system, correct?

05:17PM 22 A. So, who do you mean?

05:17PM 23 Q. Sure. So the DEA has a computer system, I'm not sure at
05:17PM 24 that point if it was CMS or something else, but --

05:17PM 25 A. So at that point, there's a case management system called

05:17PM 1 Impact.

05:17PM 2 Q. Okay. So there was a -- there was a computer system that
05:17PM 3 the DEA has, right?

05:17PM 4 A. It was a case management system called Impact.

05:18PM 5 Q. Okay. And Impact is something that's put up on a server
05:18PM 6 by the DEA, right?

05:18PM 7 A. Again, I don't want to go too far technically because --

05:18PM 8 Q. Yeah.

05:18PM 9 A. -- I'm just not that knowledgeable. But it's an
05:18PM 10 automated case management system that sits on a server. And
05:18PM 11 depending on what group you're in, you have access to your
05:18PM 12 own group's case management system.

05:18PM 13 Q. Correct.

05:18PM 14 A. Like, I can access case management through that system
05:18PM 15 for my group but not another group, unless I get permission
05:18PM 16 to do that through management.

05:18PM 17 Q. And your experience as a DEA agent is that there's a
05:18PM 18 paper file that's kept inside the file room, right?

05:18PM 19 A. There's the actual -- it's changed now.

05:18PM 20 Q. Yeah, I know, but back then --

05:18PM 21 A. Yes.

05:18PM 22 Q. -- let's just focus on that period of time back in 2008.

05:18PM 23 A. Yep. There's the hard-copy file.

05:18PM 24 Q. Okay.

05:18PM 25 A. And then the case management system.

05:18PM 1 Q. And case management system file that's on the computer?

05:18PM 2 A. That's automated, yes.

05:18PM 3 Q. Did you look at the case management system?

05:18PM 4 A. I didn't have access to it, because the file was in group

05:18PM 5 D-57.

05:18PM 6 Q. So you never looked through any of that, correct?

05:18PM 7 A. That I don't have access -- I didn't have access to those

05:18PM 8 cases, because that was a D-57 case.

05:19PM 9 Q. Did you asks G.S. McHugh for permission to look at the
05:19PM 10 electronic file?

05:19PM 11 A. No, just the case file.

05:19PM 12 Q. And you stated that you also took a look at DEA files
05:19PM 13 concerning Peter Gerace; is that right?

05:19PM 14 A. It wasn't files. So you'd have to be more specific.

05:19PM 15 Q. Sure. So you looked for any type of DEA-6s or entries
05:19PM 16 with regard to Peter Gerace?

05:19PM 17 A. I searched through a process called a DEA electronic file
05:19PM 18 room, which searches all DEA-6s agency-wide. And I did a
05:19PM 19 search under Peter Gerace and Anthony Gerace, both.

05:19PM 20 Q. Okay. And that's when you found the entry for
05:19PM 21 November 6th of 2009; is that right?

05:19PM 22 A. Which report is that?

05:19PM 23 **MR. SINGER:** Sure. So, Ms. Champoux, can we put up
05:19PM 24 Government Exhibit 30A on the screen, please.

05:19PM 25 **THE WITNESS:** Yes.

05:19PM

1

BY MR. SINGER:

05:19PM

2

Q. This is what you found in the system, correct, sir?

05:19PM

3

A. Yes, correct.

05:19PM

4

Q. And after you found this one particular document, you

05:19PM

5

sent this over to the U.S. Attorney's Office?

05:19PM

6

A. I eventually sent it to the U.S. Attorney's Office, or

05:20PM

7

gave it to them. I can't remember which.

05:20PM

8

Q. And everything that we're talking about, that all occurs

05:20PM

9

before the 8/1/2018 meeting that you had at the U.S.

05:20PM

10

Attorney's Office?

05:20PM

11

A. This happens before -- are you talking about the

05:20PM

12

coordination meeting? Or the one where I had said what Joe

05:20PM

13

had said about the racial comments?

05:20PM

14

Q. Yes, I'm talking about the racial comments meeting.

05:20PM

15

A. So, yes, I had done that before that meeting at the U.S.

05:20PM

16

Attorney's Office.

05:20PM

17

Q. Okay.

05:20PM

18

MR. SINGER: Judge, I think this is probably a good

05:20PM

19

time to stop.

05:20PM

20

THE COURT: Yeah. We're not going to finish this

05:20PM

21

witness today obviously.

05:20PM

22

MR. SINGER: Great.

05:20PM

23

THE COURT: Folks, we'll stop for the day now.

05:20PM

24

Please remember my instructions about not communicating about

05:20PM

25

the case. Don't use tools of technology to research anything

1 about the case. In fact, don't try to learn anything about
2 the case outside the courtroom whatsoever. And don't use
3 tools of technology to communicate about the case.

4 If there's any news coverage about the case, don't
5 read it or watch it or listen to it. If there's anything on
6 the internet, don't look at that. And don't make up your mind
7 until you start deliberating.

8 We'll see you tomorrow morning at 9:30. We'll go
9 until 5 tomorrow. And then 9:30 to 5 again on Thursday.
10 Maybe you can watch a replay of the Bills game tonight, it
11 might be on.

12 Thanks, everybody.

13 (Jury excused at 5:21 p.m.)

14 **THE COURT:** Okay. Anything before we break from the
15 government?

16 **MR. COOPER:** No, thank you.

17 **THE COURT:** From the defense?

18 **MR. SINGER:** No, Your Honor.

19 **THE COURT:** So tomorrow morning, I want everybody to
20 come prepared to discuss scheduling, what time we're gonna do
21 the conference on Friday, when we're gonna sum up, and when
22 we're gonna charge. I'd like to have a plan in place tomorrow
23 morning. So why don't you come in ten minutes early, and
24 we'll try do that before -- can you do that, Mr. Singer?

25 **MR. SINGER:** I can get there, Judge, as long as my

child doesn't miss the bus like today.

THE COURT: Yeah. Okay. So ten minutes early, and we'll talk about that before we talk with the jury. Okay?

MR. COOPER: Thanks, Judge.

THE COURT: Thanks, everybody.

(Proceedings concluded at 5:22 p.m.)

* * * * *

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York on September 24, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

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EXCERPT - EXAMINATION OF ANTHONY CASULLO - DAY 1

SEPTEMBER 24, 2024

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